

THE BODY TABOO:
ITS ORIGIN,
EFFECT, AND MODERN DENIAL

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THE BODY TABOO:

*ITS ORIGIN,
EFFECT, AND MODERN DENIAL*

BY
ELTON RAYMOND SHAW, M.A.

Reason teaches us that those who are truly pious and philosophical honor and love truth alone, refusing to follow the opinions of the ancients if they are worthless.

—Justin Martyr, 1. Apol. 1.

According to the word it is much more desirable to give assent to doctrines by reason and wisdom than by mere faith.

—Origen, Contra Celsum, 1. 13.



OVER TWO MILLION HOMES
HAVE OUR PUBLICATIONS

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"The truth is always safe, and nothing else is safe."

—Max Muller

"He that will not reason is a bigot; he that cannot reason is a fool, and he that dares not reason is a slave."

—Henry Drummond

"Error in opinion may be tolerated when reason is left free to combat it."

—Thomas Jefferson

"Let us be free from all fear of the world or of consequences, in a manly purpose to find and follow the truth as we see it."

—Hugh O. Pentecost

"The truth is that in the metaphysical and religious sphere, articulate reasons are cogent for us only when our articulate feelings of reality have already been impressed in favor of the same conclusion."

—William James

"We all believe in intellectual and moral progress. Therefore, whatever may be the character or subject of a man's opinions, others have the right to express their judgments upon them, to censure them, if deemed censurable or turn them to ridicule, if deemed ridiculous. If such a right is not protected by law, we should have no security against the exposition or perpetuity of error, and therefore we should hamper progress."

—Theodore Schroeder

"He that would make his own liberty secure, must guard even his enemy from oppression, for if he violates this duty he establishes a precedent that will reach to himself."

—Thomas Paine

"Those powers of the people which are reserved as a check upon the sovereign can be effectual only so far as they are brought into action by private individuals. Sometimes a citizen by the force and perseverance of his complaints, opens the eyes of a nation."

—Jean Louis Delolme

"I will be harsh as truth and as uncompromising as justice. I am in earnest; I will not equivocate; I will not excuse; I will not retreat a single inch; and I will be heard."

—William Lloyd Garrison

"The man of rational mind considers all evidence, for the love of truth, but never loves any statement of alleged truth before it is fairly demonstrated to be true, and even then, he accepts it as only a conditional truth, for the correction of which all new evidence will ever be welcomed."

—Theodore Schroeder

TRUTH

Search for truth began with our arboreal ancestors who first faced daily problems involving factual experience. When age-long experience discovered no fluctuation in the relation of the two facts A and B, that relation could be formulated into a simple statement of "truth." As a consequence of this rather simple method of arriving at "truth," the majority of philosophers have been content to accept as "truth" any statement that is in harmony with known "facts." But in this definition the terms "truth" and "facts" are synonymous and the definition ceases to be a real definition, for "facts" are by their nature indeterminable, variable and unpredictable. It is no defense of the pseudo-definition to retort that in such case the so-called "facts" have ceased to be "facts." That fact must be fact, that truth cannot suffer variation any more than can simple mathematics—this is an old concept but a most unsatisfying one if we are to relate truth to life. For life is a changing, throbbing, moving thing, forever leaving its present status in discontent and finding realization only in reaching out for hitherto un-gained goals. In such an environment truth cannot remain static; it, too, must become a progressive disclosure of relationships between men, things and events.

For the individual, therefore, truth ceases to be a fixed body of factual statement and becomes, instead, a glorious adventure along the highway of the years, an unending search for the good and the beautiful in every compartment of life, refusing to accept the findings of yesterday as sufficient for the tasks of tomorrow. Did not Lowell have this in mind when he struck off those scintillating lines:

New occasions teach new duties,
Time makes ancient good uncouth.
They must upward still and onward
Who would keep abreast of truth.

Truth is in the forefront of all progress. She leads on from the known to the unknown, opens ever new doorways in the halls of achievement, despises not the past but knows no satisfaction save that of fresh conquest over ignorance, fear and superstition. No life committed to this concept of truth and lived in alliance with it, can be a barren or unfruitful life. This kind of truth is infinitely richer, vastly more dynamic than all the merely factual truth that the world has ever known or ever will know. This is the only truth through which mankind can hope for real liberty; it is that truth of which the Galilean Teacher remarked: "Ye shall know the truth and the truth shall make you free." If your feet be set upon the highway of this living, vital truth, the ultimate issues of life will possess a surpassing glory.

ILSLEY BOONE

PUBLISHER'S PREFACE

Elton Raymond Shaw has been active in social welfare work since graduation from college in 1907. He is the author of eleven books. Six of these are on various phases of the beverage alcohol problem and have had a sale of nearly a million copies, said to be a record since T. S. Arthur wrote "Ten Nights in a Bar Room" in the eighties.

He has been active for many years in movements for higher moral ethics, for better movies, against gambling and in other human betterment movements and has delivered more than four thousand addresses in thirty states on various themes of social progress. In these connections, he served for several years as Chairman of the Prohibition State Committee of Ohio, Executive Secretary and National Lecturer for the Inter-collegiate Prohibition Association, and Director of College Life Service Conferences and Older Boys' Conferences for the Methodist Episcopal

Church. He was also, for some time, a Trustee of the International Reform Federation and was asked to become its Superintendent. For several years he was a member of the Board of Directors of the Better Government Association of Cicero, Berwyn, Lyons, Stickney and Argo,—five west suburban cities and villages of the Chicago area. This was the organization made famous by employing secret investigators who secured evidence which padlocked more than fifty of Al Capone's infamous dives by Federal injunction. He declined the presidency of that organization.

Mr. Shaw admits frankly that he was prejudiced against the movement to abolish the body taboo, but study and investigation convinced him that it is necessary to destroy the superstition of the obscenity of the human body. This investigation has included extensive historical research, a study of the complete book and magazine literature of the movement, records of hearings before committees of various legislatures, reports of court trials and briefs of attorneys in lower courts and appeals to Supreme Courts, interviews with many of the attorneys and judges who prosecuted, pleaded and presided in the various trials

in which the practice of social nudism or the sale of magazines on news-stands was attacked.

Mr. Shaw resolved to study the movement first hand with an open mind and have the benefits of actual observation and experience in the camps. He and his wife became members of two of the leading camps and five other camps were visited on week ends and during vacation periods, making a total of seven clubs and camps included in the investigation. From careful observation he learned that social nudism has no stimulating effect on the sex emotions, that nudists are intelligent people of the better class, that promiscuity and illicit relations have no place in nudist organizations, that the conversation is always above reproach, that all alcoholic drink is prohibited in most of the camps and that health of mind and body are uppermost. Openly prejudiced against the movement a few years ago, he has come to look upon it as possibly the greatest movement for social progress in many centuries.

I think that in a general way we may say there are two pretty distinct classes of people that make up this so-called human race. The first class consists of those people to whom their beliefs are more precious than the truth. The second class consists of those people to whom the truth is more precious than their beliefs. Now this second class have made all the progress in natural knowledge that the world has ever had. The first class have never had anything to do with progress except to hold it back. . . . The first class believe what they believe in spite of the facts. The second believe what they believe in spite of themselves—in spite of their own prejudices, emotions, vested interests and pre-conceived opinions.

—Dr. Harry Emerson Fosdick

Unto the pure all things are pure; but unto them that are defiled and unbelieving is nothing pure; but even their mind and conscience is defiled.

Titus I, 15

I know, and am persuaded by the Lord Jesus, that there is nothing unclean in itself: but to him that esteemeth anything to be unclean, to him it is unclean.

Romans XIV, 14

I

THE UNIVERSALITY OF THE BODY TABOO AND THE PRESENT CHALLENGE

The body taboo, in one form or another, is almost universal. It is found among savage and civilized peoples. Clothing is worn not only for adornment and protection but for concealment. Instead of being worn when it is a benefit and discarded when it is a detriment, social pressure in many countries compels the wearing of some clothing in swimming, in sun and air bathing, in gymnastics, in tennis and other sports and, generally, on all other occasions and locations where people associate together. Even in cases where clothing interferes with activity or even where actually detrimental to health, it must be worn. Modern civilization, with all its artificiality, inhibitive and repressive tendencies, prevents people from using the vital elements under perfectly natural conditions. Blind prejudice has prevented a better adjustment between the artificial and natural elements of life.

The amount of covering, however, is being reduced very rapidly. This is true of both men and women in their everyday dress as well as in their sports. Women wore shorts for the first time in 1935 in the official tennis tournaments in Great Britain and, contrary to prediction, conservative Queen Mary took no notice of the abbreviated garb. Shorts are commonly worn in tennis club or tournament play in many countries. I have not read of any club regulations against their wear. Women golfers began wearing shorts in tournaments in 1935 and, for some reason, controversy raged. According to magazine reports, officials of the Metropolitan Golf Association declared that women might not wear them again in events staged by their association. Why women golfers should be less free than women tennis players no one seems to know. Jokesters say that men will not stand for the innovation because they find keeping their eyes on the ball difficult enough as it is. Some golf associations are approving shorts. Some tradition-rooted clubs have declared not only against women wearing shorts but against men taking off their shirts on the course. Rev. Fr. Patrick O'Brien, Maplewood, New Jersey, issued

an opinion on shorts, "Any mother who allows her daughter to follow this fashion is guilty of serious sin. We are not living in the Borneo Islands but among civilized people." Nothing is said of the daughters who wear the shorts being guilty of any sin. Why permitting a daughter to wear them is serious sin, Father O'Brien does not tell us. Regardless of present regulations, women golfers will eventually make their own decisions just as women swimmers and women tennis players have made their own decisions. Practical considerations will rule. If shorts have greater assets than liabilities, they will become as common in golf as in other games.

In 1935 an Associated Press dispatch was sent out from Columbus, Ohio, which indicated that a tempest was stirred up over a suggestion that co-eds wear shorts.

Is it unbecoming to, or beneath the dignity of, Ohio State co-eds, clad in sweaters and shorts, to participate in a fifty-yard dash and a bicycle race as part of the Ohio-Notre Dame track meet Saturday night? Miss Gladys E. Palmer, acting chairman of the Women's Physical Education Department, put her foot down emphatically and said it was. Larry Snyder, coach

of the Buckeye track team, said it wasn't. Miss Palmer said that the Carnival Committee, sponsoring a program, was merely exploiting the co-eds.

Bathing suits for both men and women are more abbreviated each year. Everywhere on the beaches men are wearing trunks only. In many sections official approval has been given. It is only within the last fifteen years that women have been allowed to bathe with bare legs and in one piece bathing suits. The exposure of the knee would have been obscene a few years ago. Then the time came when knees were not obscene and girls wore stockings rolled down below the knees. The people of a few years ago began to wonder at just what point the leg became obscene! Only twenty-five years ago bare knees could be exposed legally but the calves had to be covered by stockings. How our young people of today laugh when they see those long skirts and long sleeves of the bathing apparel which their mothers wore in 1900. It was about 1900 that I was on the bathing beach at the foot of Montrose Boulevard in Chicago and saw a police patrol drive up and take a man aboard because his bathing suit was in violation of city regulations! He had

enough bathing suit to make several modern suits, but he went to jail! Modern bathing suits would have been indecent and shocking to the people of that period, yet no harmful results of wearing the more abbreviated suits have been observed.

Dr. Ilsley Boone said in *The Nudist*, April, 1936:

We must all admit with the educated darkey "dat de worl' do move." But sometimes its gyrations, like the movements of the North Pole, are pretty wobbly; progress is not always a smoothly ordered procession. Bathing suits are a case in point and we may as well take up the matter early in the season instead of waiting till the mayor of Revere Beach and the chief of police at Old Orchard tell the summer folks just how much clothing they can dispense with when going in for a swim. All of which raises some very interesting questions.

Last season witnessed a most encouraging progress in the adoption of appropriately brief attire for sun and water bathing. A few years ago Knight Dunlap, Professor of Experimental Psychology, Johns Hopkins University, forecast the arrival of nudism in America and ventured the assertion that the women folks would be the first to "arrive." If so, they are apparently in a pretty close race with the men. Last season saw simply trunks for men as acceptable bathing attire on a num-

ber of public beaches, with shorts and halters as the minimum requirement for women. At the end of the season, however, the most abbreviated outfit for women included halters that were little more than semi-transparent brassieres and shorts that were, through being very loosely laced, entirely open at the sides, thus permitting exposure of the epidermis the entire length of the body. It is highly probable that 1936 will see the adoption of this and still briefer styles for women while men will adopt either the strap or the European triangle.

These possibilities are a long, long distance from the multiple garment outfits of only twenty-five years ago but they too, doubtless, will prove to be only a stage in the progress to that better day when with perfect propriety bathing will be permitted without benefit of rags. Of course, a good deal of that sort of bathing now goes on in camps and in some of our more liberal summer resorts, but it has not yet gained permission of the authorities. In the meantime, we shall be glad to do here in America what the Men's Dress Reform Party of Great Britain did in the interest of banishing the old style bathing requirements—they published the names of all towns and bathings resorts where abbreviated outfits were permitted, with the result that the resorts, after the first one or two seasons, almost tumbled over one another to get into the listing. We shall be glad to report and to list all communi-

ties exercising liberality in the matter of removing undesirable bathing restrictions. Such communities, please report.

Many explanations of the origin of clothing and the origin of the body taboo have been made. Protection from cold, heat, dampness, insects have been mentioned as have many other things such as rough soil, thorns and even evil spirits. Craving for adornment, especially the desire of promoting sexual attraction, has been presented frequently. Many still hold the theory that clothing is a result of a primitive instinct of modesty, an idea entirely erroneous as we shall see.

Glenn O. Filkins in an article entitled "Nudism and Clothing" in the magazine *Diet* quotes an unnamed writer as follows: ¹

Others claim that it was the work of Moses, who, wishing to multiply his flock, and knowing that the nude bodies of women are less exciting to the sex passion than when covered, caused the women to keep covered when abroad among the people. Thus, by hiding from the men the sight of nude women, he aroused their curiosity, stimulated to a greater degree the sex passion of the male, and thereby increased the

fecundity of his flock. There is, however, a more natural and comprehensive reason.

Primitive man, in the longing for decoration, smeared himself with colored earth. Red ochre, found in prehistoric caves, is believed to have been used in this first painting. We find to this day that there are still little-known tribes, whose sole covering is a smear of paint over the whole body. The variation in coloring serves to indicate the varying importance of the individual, and to enhance the charm of the female.

The production of scars has also been a means of decoration. Great pride is taken by German college students in their facial disfiguration, brought about through their ancient custom of dueling. The combination of paint and scars led to the still used art of tattooing. Soon the possibilities of these means of decoration reached a limit, and to them were added the placing of plugs and rings in the ears, the nose and even the lips. All of these decorative efforts are still employed, in a modified manner, by our women of today. The paint, by lipstick, rouge and powder; the scars by small bits of adhesive at points on the face; the plugs and rings by the present use of ear-rings, bracelets and finger-rings.

The limit to which the body might be hung with ornaments was finally reached. It was then found that a girdle of grass rope, skin, and, later, the coarse cloth of the time, could be hung about the waist, leav-

ing the arms free. This waistband could be hung with all manner of things precious to the heart of a savage. Soon the urge to display greater wealth and position within the tribe led to the lengthening of the girdle to the knee, and even below. That this led to a covering of a certain part of the body had nothing to do with a sense of shame, but only came about through the increase in the size of the girdle.

So it may be readily seen that through this desire for ornamentation, a portion of the body became unintentionally concealed. This covering became such a settled custom that to appear among one's fellows without it provoked criticism, not because the individual was naked, but because the indication of worth was missing.

The feeling of shame, said to have then arisen, seems to be but a shame of deprivation of ornamentation rather than lack of bodily concealment. Would you not have this same sense of shame if you found yourself at a formal dinner without a tie, or, if a woman, you found yourself on the street in the afternoon in the daring gown so admired at last evening's very proper ball?

Thus we see that dress, even to this time, is traced to no more than a desire for ornamentation. Man is thought to have originated in a warm climate and as the bolder ones of an increasing race pushed their way north and south to colder climes, it was found neces-

sary to shield the body from the elements. Skins of slain animals, furry side in, were used, but only to ward off the cold. In the recent motion pictures of Eskimos, within the igloo, the absence of clothing is featured, as far as the censors will permit. Both ornamentation and clothing are thrown off when no longer necessary.

The original reason for clothing has been forgotten generally and the present fake modesty has taken its place. We now brand as immoral that which Moses, as Jewish law-giver, condemned only as inexpedient to the rapid increase of his race. This decree of Moses has come through the ages, not as he reasoned it, but insofar as it seemed to forbid nudity.

This body taboo is not merely a social convention but a moral and religious principle and though the taboo has been wholly or partly released here and there, and though it takes various forms in various places, we find bitter opposition today to the attempt to take this taboo out of the realm of religion and morality, where bigotry, intolerance, fanaticism, and prejudice reign, into the field of psychological science where it may be observed with the open-minded attitude of the true scientist.

The difficulty is not lessened by the fact that

the intersex taboo does not exist in the field of art and sculpture or in certain countries, viz., Sweden, Norway, Denmark, Japan, Russia, nor is the difficulty minimized by an utter lack of agreement as to the parts of the body to be covered or the form the body taboo takes. The complete taboo, that it is sinful for one to contemplate one's own body; the objective taboo, that it is sinful to expose the body before any other person, even one of the same sex; the familial taboo, that it is improper to have exposure as between parent and child or even between husband and wife—all have adherents in present day discussion, but most widespread is the intersex taboo, that it is indecent to expose the body before one of the opposite sex. It is this intersex taboo which has been supported sometimes by legislation and courts of law. The movement to lift this intersex taboo, called social nudism, has met organized and bitter opposition from honest people who think that the lifting of this taboo threatens our moral standards and our most cherished institutions. It must be exterminated, these sincere people tell us, at all cost. They insist it sprang out of the mass neuroticism which

the World War produced in Europe and was imported to America like the spores of some noxious foreign weed and took root in this country, first on the Atlantic seaboard from which it jumped to the Middle West and on to the Pacific Coast.

In the bitter controversy which has arisen, the advocates of this lifting of the intersex taboo have been called morons, degenerates, sexualists and criminals. For good or for ill, the movement to destroy the superstition of the obscenity of the human body has enlisted several hundred thousand people in the English-speaking countries alone, people who are supported by many of the world's greatest psychologists, sociologists, psychiatrists and other medical men, ministers, philosophers and other intelligent, broad-minded and open-minded men and women of all professions and vocations. Havelock Ellis, father of sex psychology, physician and psychologist, scholar and philosopher; Dean William Ralph Inge, of St. Paul's Cathedral, London; Doctor Cyril Edwin Mitchinson Joad, author of some thirty books and Head of the Department of Philosophy, University of London; Doctor Maurice Parmelee, sociologist and author of international standing;

Stuart Chase, sociologist and author; Doctor Frankwood E. Williams, fifteen years Medical Director Mental Hygiene Association and Editor of *Mental Hygiene*; the late Doctor Howard Crosby Warren, Head of the Department of Psychology at Princeton and Editor of *The Psychological Review*; Harry Elmer Barnes, sociologist and economist; Arthur Garfield Hayes, lawyer; Mary Ware Dennett, specialist in sex education and author; Upton Sinclair, statesman and author; Poultney Bigelow, historian and author; Christian Alban Ruckmick, Professor of Psychology, University of Iowa; Judge Ben B. Lindsey; Ernest Thompson Seton, author and lecturer; Professor John C. Fluegel of the University of London; Dr. Robert Latou Dickinson, Senior gynecologist and obstetrician in Brooklyn Hospital and author of seven books and 200 researches on sex problems and obstetrics and diseases of women; Professor Lewis Madison Terman, Head of the Department of Psychology, Stanford University; Richard Arlen and Gloria Stuart of the films; Dr. Pierre Vachet, internationally known psychologist; and scores of other widely known scholars of national and international repute have

given the movement their endorsement. These people insist that this movement to abolish the superstition of the body taboo is the first real ray of light in many centuries on the sex question. They insist that the movement is a great educational and social force for good and hold that actual results already justify their claim that the movement is one of great social progress and moral betterment. They insist that when the entire body becomes familiar, the unnatural thrill that the average person gets from the sight of it will be at an end and one will contemplate it without shock. Mystery and taboo alone have made the sight of the human body hurtful. They take the position that boys and girls should learn to know the anatomy of the other sex while they are very young, knowledge which would greatly help instead of hinder their proper development. The opposition is very strong and determined, however, and the lines seem to be tightening so that the contest threatens to be long and bitter.

It is essential that we put aside all prejudice and seek the truth as to the origin of the idea of the body's obscenity, the true conditions where

the intersex taboo has not existed, and the results in camps in Europe and America where it has been lifted. Some two million people in Germany have practiced social nudism. It has been estimated that one-quarter of the world's men and women have been accustomed for centuries to bathing together nude, a custom which, to the rest of the people of the world, is most obscene. Since 1929, there have been an ever increasing number of organized camps in the United States where the movement has grown rapidly. Sufficient time has elapsed to warrant some generalizations, but, before any fair observations can be made and conclusions reached, it is essential that we go back and trace to the source the idea that the human body is indecent and obscene and the origin of the various body taboos we have mentioned.

II

RELIGION AND THE CULTIVATION OF A DAMAGING MYTH

Outside of Christianity and one or two closely allied systems, the early religions and the religious rites were saturated with sensuality. Religion was almost as much concerned with sex as with ethics or theology. Religion and the sex instinct are closely associated. As one good illustration, students of the Old Testament will recall that the Israelites came in contact with the Canaanites who practiced Baalism, the simple nature religion in which the male and female principles of life were represented by a bull and a cow, Baal and Baalath or Astarte. The words literally mean "master" and "mistress." Baalism was the religion of agricultural people and the bull and the cow or "master" and "mistress" were of the soil, the source of the products of life; and the worship consisted in the presentation of the fruits of the soil as a tribute

to the divinity that had caused them. Festivities were always associated with the worship, the worshipers gathering to eat and drink in the presence of the divinity and giving themselves over to promiscuous and immoral intercourse between the sexes. *Exodus 32* and *Numbers 25* describe these riotous acts of debauchery and prostitution or drunkenness and free love which were all the more dangerous because made very general and respectable under the sanction of religion. Another feature of Baalism consisted in the institution of sacred prostitution in connection with the sanctuaries, and provided for both male and female prostitutes, Chemarim and Kedeshoth. It is necessary to understand well the nature of Baalism in order fully to realize its attraction on the one hand and the strong opposition on the other.

Elijah and Elisha, with the help of Jehu and Jehonadab, fought Baalism with bloody zeal which could not be justified on moral grounds nor by the results which it aimed to achieve. The persecution was condemned by the later and more enlightened prophets but Baalism in Israel was not destroyed for Hosea was preaching against it a century later. It appealed to the Is-

raelites from the time they first came in contact with it. The longer they lived among the Canaanites, the more opportunity they had to come under its influence. Baal worship made deep inroads into Israel. Religion did not lack ceremonialism but it became saturated with the lewd Canaanite Baalism. The Israelites could have enjoyed May West in "Sin," "The Pleasure Man," "She Done Him Wrong" or "I'm No Angel," for debauchery and prostitution had a fascination for them which kept the later prophets busy for nearly three hundred years (until the Exile, 586 B. C.) after Baalism reached its climax under Omri's Tyrian wife Jezebel, who had a genuine missionary zeal for her drunken and free love religion.

The early Christian fathers were bitter in their condemnation of the beastly devices of the heathen. They continually protested that all heathen religions were impure, associated with licentiousness and sexual stimulation. Their favorite argument was that Christianity was the first religion to introduce chastity and decency into religious worship. Christian asceticism, swinging to the other extreme, was the reaction

of the early Christians against pagan hedonism and sensuality. They carried their reaction too far. People have always done so. We seem to hate or fear that which we abuse. The body came under the ban. Sex became unclean. While cleanliness was vital in pagan civilization, cleanliness and healthfulness of body were deemed by the Christian fathers to be of very little importance. The immortal soul was the important thing. "Man wants but little here below. We are here but for a short time only. Heaven is our home." The body soon perished, but the soul lived on forever. The soul could best be glorified by mortifying the body. The flagellants, a fanatical sect of the thirteenth, fourteenth, and fifteenth centuries, maintained that flagellation was of equal virtue with baptism and the sacrament and they went about scourging themselves with whips. This they did partly as an atonement and partly in accordance with the principle of chastity openly declared by the church, the liberation of the soul from sensuality. And all this was favoured at first by the church which finally was forced to oppose it as it became apparent in many terrible occurrences that sensuality was increased horribly by

such whippings. Others lay on sharp spikes and mutilated and tortured their bodies in numerous ways. To be happy was a sin. The ascetics thought their God wanted people to be gloomy and miserable and "God" surely saw his want satisfied! People slept on the bare ground, took vows of silence, refrained from bathing, hair cutting, or clean clothes. Dietary restrictions were purely ceremonial and superstitious and not intended to prevent the eating of meats which would be revolting to modern taste. The Jews could eat locusts, grasshoppers, crickets, cockroaches, but were forbidden rabbits, hares, storks, pork and beef. They were afraid they would absorb the soul of the animal, which resided especially in the blood. Men and women who did not marry but devoted themselves to the religious life were exalted above those who married and reproduced. Sexual intercourse became a sin. Sexual organs became obscene.

Why did Christian asceticism, in reacting against pagan hedonism and sensuality, swing to an extreme position even more harmful to human kind? To find an answer we must look back at the primitive religions and the magico-reli-

gious ritual which consisted of two orders of procedure. One was intended to conciliate, delight and attract the gods or spirits. The other was to avert or expel the harm which the spirits were supposed to have the power to inflict. To the first order belonged all those rites which were aimed to increase and stimulate the good and kindly acts of the spirits; to the second order belonged the rites of mourning and aversion. As the sexual rites and sensual symbolisms of the early primitive religions became repugnant to the sentiments of the more cultural period, these religious rituals or orders of procedure took on greater importance. Practices to avert the jealousy or envy of the supernatural beings consisted in abstention from all types of gratification. Self-mutilation, mortification of the body, neglect of adornment and cleanliness became the order of the day. Fasting and chastity were above all other forms of agneia, as the Greeks and Christian fathers designated both these orders of ritual. The word was used by Christians to cover chastity, sexual purity, abstinence not only from sexual copulation but abstinence from food and rites of aversion and mourning as well. All those

practices were designed not to win the presence of the gods but to keep the wretched things off. The gods were controlled, not by pleasing them as the sexual rites in the early religions were supposed to do, but by disarming their jealousy and envy. The practices belonged to the element of fear in religion.

The Jews drew no distinction between ritual requirements and ethical virtues. They, above all other nations of antiquity, looked upon the magic practices and religious rituals as identical with moral virtues. The lack of *agneia*, the ritual defilement, was, with them, moral impurity or actual sin.

What does all this mean to us today? It means everything, for out of that confusion in their thinking has come our present superstition of the body's obscenity which has done more harm than any other one idea in the world's history. Christianity has its roots in Old Testament history. Out of that misconception came the ascetic ideals which characterized early Christianity and the fierce denunciation of all manifestations of the sexual instinct as evil. This horrible misconception caused Christians to castrate themselves.

Origin and his monks castrated themselves, feeling that they were gradually ascending in grace when they submitted to such a sacrifice. It caused them to look upon the body as indecent and obscene. A woman's body was especially wicked. Woman was the gateway to hell. This uncompromising attitude of the early Christians caused many of them to declare that the extinction of the human race would be preferable to its propagation through sexual copulation. The monks of the convent of Mount Athos accused the monks of a neighboring convent of falling away from grace because they allowed hens (because being of the female sex) to be kept within the convent enclosure!

Victor Francis Calverton in "Sex and Social Struggle," a chapter in *Sex and Civilization*, traces this early Christian conception of sex not only through the first five centuries but down to our own time.

Perhaps the most sweeping illustration of the historic influence of social struggle and class conflict upon sex attitudes and sexual philosophy is to be discovered in the clash between paganism and Christianity during the first five centuries of the Christian era.

The consequences of this clash linger with us yet. In the loose morality of the upper classes in Rome there were those excesses born of idleness and wealth. At one time in the latter days of the Republic, this loose morality took on a marvelously intelligent character, within its own group, when it replaced manus marriage by free marriage, thereby turning marriage into a private affair, with divorce a private matter which the woman was as privileged to utilize as the man. On the whole, however, its own extravagances, increasing with the advancing economic chaos, led to its own destruction. The conditions of the rest of society, particularly of the lower classes, were characterized by deprivations so terrifying that they drove men either to protest or despair. The failure of the Spartacan revolt lessened the protest and deepened the despair. The conditions of slavery emphasized it. The aching spread of poverty made it even more cancerous among the poor. Life soon could offer neither palliative nor aspiration. And men of the lower classes, slaves and freed-men, perforce, turned to another world with the gesture of a falling warrior. It was their only escape. It fed them with a promise of a paradise, an other-worldly utopia. A spiritual mania was created. It swept from city to city, and province to province, winging itself upon the wild enthusiasms of men and women suddenly seized by the mad prophecies of a delirious dream. Persecution

only made it thrive. At length it became a movement of the poor and outcast. It became a social movement with a religious cast. At length straggling members of the upper classes, sick with the decay of their own life, came within its spell. The end of the world was at hand. A new world, fresh with eternal peace, was about to dawn. It was a world beyond the skies, a paradise of light. Men believed these things. They became a part of their life. They were willing to die for them. Everything for the new world became their cry. This world was but a moment; but that world was of eternity. Martyrdom became an obsession. The lion's roar could not frighten souls dedicated to the destruction of flesh. And out of all this madness came the Christian attitude toward sex. Sex was a sin. Sex perpetuated this world. It was, therefore, a device of evil. Castration sects grew up. Men made themselves into eunuchs for Christ's sake. Men must consecrate themselves to the hereafter and not to what is. And so the phallus became for Paul a thorn in the flesh, and for Tertullian woman became the "gateway to the devil." Clement of Alexandria declared that "every woman ought to be filled with shame at the thought that she is a woman." Woman became unmitigatedly despised because of her reproductive function and her tendencies to worldly temptation. While Plato had classified woman along with "children and servants," it was the early Christians who condemned her to

perdition. In their eyes she was the incarnation of evil, because she was "sex." Sex was an intrusion in a world that was about to end. Men must prepare themselves for higher things. And so continence became a virtue, and celibacy was exalted into a way of life. Sex was unclean in its worldliness. It lacked the purity of a heavenly vision. It was a joy of the body instead of the soul. The body now was an unclean sheath that enclosed an immortal soul. The body was to be despised, the soul cherished. The body died, but the soul lived on forever. Nakedness, because it emphasized the body and magnified its temptations, became sinful, and sexual intercourse, because it fed upon the body for its ecstasy and tended to reproduce its forms, was scorned as a craving borne of the evil of the flesh. The saintly would never surrender to it. Even those, as Paul said, who could not constrain themselves, must never come to look upon their act as sweet and sinless. It was through women, and sex, that Adam had fallen.

These early attitudes of the Christian fathers had been modified but never removed from Christian doctrine. Sex continued to remain an unclean necessity. The institution of marriage was soon adapted to include the poor and the enslaved, and to give a kind of divine sanction to what was so undivinely pagan. Wherever Christianity has swept, it has carried this influence, this Christian attitude toward sex and the

moral life. It has become ingrained in western culture.¹

Mr. Calverton's statement covers ground not included in Church School literature or other books usually found in a minister's library but historical research indicates that his statement is a fair one. Of course it is difficult for us to understand how the Christian fathers interpreted some passages which to us seem to be at variance with their superstition of the obscenity of the body. Mr. Calverton's statement covers the first five centuries of the Christian era and he may be rather sweeping in his generalization but he is speaking especially of the period after Christ had died. The superstition of obscenity of the body developed gradually and among the contemporaries of Jesus the myth was not as universal as in the later period of asceticism.

Doctor Ilsley Boone tells us that all scripture passages against nakedness fall into one or another of three categories, viz: (1) The injunctions against nakedness of the priests or the disclosure of their persons; (2) injunctions against nakedness associated with lewd or lascivious intent; (3) injunctions against nakedness based

upon the well known Semitic form (parent and child) of the sex taboo. Dr. Boone states that outside of these three classifications, no injunctions against nakedness *per se* will be found.

In an editorial in *The Nudist*, January, 1936, Doctor Boone said:

In 1903 there was published to the modern world a bit of papyrus discovered in the great mass of papyri acquired by the Egyptian Exploration Fund from the ruins of Oxyrhynchus, one of the principal early Christian centers of Egypt. This fragment, like the others which, with this one, make up the so-called "Logia," purports to be sayings from the lips of Jesus, and by most competent biblical scholars is held to be authentic utterances of the Nazarene. Lines 17 to 23 of this fragment are translated as follows: "His disciples say unto him, when wilt thou be manifest unto us and when shall we see thee? He saith, when ye shall be naked and unashamed."

The relation of nudism to religion is a most interesting one, though we ourselves have always hesitated to assert any identity. Certainly nudism cannot by any stretch of terminology be called a cult; for it possesses no religious creed, makes use of no ritual and has no formalized expression. But there is much that can be said regarding its spiritual implications—though even here we would probably have to grant that they exist

for those spiritually inclined but are without significance for most all others.

Interpreting the above cited words of Jesus, we may arrive at a measure of understanding regarding his thought of a naked life and its relation to a pure life. Apparently he had been talking about the failure of his disciples to comprehend him. He had told them that as yet they did not really know him, but that some day, due to some change within themselves, he might be able to "manifest" himself unto them and they might be able actually to "see" him for what he really is. Then comes their perfectly natural query, "When shall these conditions of our full understanding of thee come to pass? When can we have this knowledge of thee?" Now Jesus might have taken this occasion to dwell upon the law of purity, as he briefly did on other occasions, as when he said, "He that lusteth in his heart has already committed adultery"; or again when he declared simply, "the pure in heart shall 'see' God." But this time he replied differently, and probing far more deeply than they knew into the psychology of puremindedness, he said simply, "When, being naked, ye shall know no sense of shame."

If it be said, "Yes, but he had no such thing as modern nudism in mind, with men, women and children nude in each other's presence; you cannot get this from his casual utterance"; our reply must be that surely he had no reference to a single individual being

naked all by himself—that would have been silly; nor could he well have meant only men segregated by themselves. That would have been equally silly as every boy of the “swimming hole” could testify. Jesus’ words are uniformly of more general and sweeping application. When he said, “Ye are the salt of the earth,” he referred to all of his disciples of all time. Similarly here, his words are to be taken as applying to all of his disciples of all time—“whensoever nakedness of the body can be known and enjoyed with complete freedom from all sense of shame, then will men possess the capacity to comprehend the ideals and to approach the standards of Jesus.”

Nor should it be thought that the above interpretation is in any sense special, peculiar, or unusual. The Rev. Charles Taylor, D.D., LL.D., Master of St. John’s College, Cambridge, England, in lecturing upon this very passage at Mansfield College, Oxford, called attention to its similarity to other sayings of Jesus in respect to clothes. The lines immediately preceding, viz., lines 1 to 17, include these declarations: “Take no thought for clothing as to what you shall wear, for you are far better than the lilies which weave no garments. And who could add to your appearance? He himself will give you your clothing” (i. e., The only clothing one needs is the clothing God gives him). “The body is more than raiment.”

In the Gospel to the Egyptians, Salome asks about the age to come, and Jesus said, "When ye shall have trampled the clothing of shame." This, Dr. Taylor takes to refer to Genesis 2:25, "naked and unashamed," viewing the clothing adopted by Adam and Eve not as the "clothing of modesty" but as "the clothing of shame" which Jesus says shall be "trampled" or done away with in that better age to come.

This whole theme could be considerably expanded by still other references of a like nature to demonstrate that the age of nudism has often been forecast as the dawn of a more ideal society; but it will suffice if we conclude with the description of the Graces in Spenser's *Faerie Queene*:

"Therefore they alwaies smoothly seeme to smile,
That we likewise should mylde and gentle be;
And also naked are, that without guile
Or false dissemblaunce all them plaine may see,
Simple and true, from covert malice free."

In this connection, it will be admitted that there are exceptions to the Jewish idea of the obscenity of the body. Nakedness among the prophets was very common and they were a combination of statesman, reformer, theologian, preacher and author. The twentieth chapter of Isaiah describes the Lord speaking to Isaiah and

telling him to go and loose the sackcloth off his loins and the shoes off his feet and Isaiah did so, going naked and barefoot.

In the year that Tartan came unto Ashdod, (when Sargon the king of Assyria sent him,) and fought against Ashdod, and took it;

At the same time spake the LORD by Isaiah the son of Amoz, saying, Go and loose the sackcloth from off thy loins, and put off they shoe from thy foot. And he did so, walking naked and barefoot.

And the LORD said, Like as my servant Isaiah hath walked naked and barefoot three years for a sign and wonder upon Egypt and upon Ethiopia;

So shall the king of Assyria lead away the Egyptians prisoners, and the Ethiopians captives, young and old, naked and barefoot, even with their buttocks uncovered, to the shame of Egypt.

And they shall be afraid and ashamed of Ethiopia their expectation, and of Egypt their glory. (Isaiah 20: 2-5.)

Thus by the prophet walking naked and barefoot three years was the shameful captivity of Egypt and Ethiopia prefigured. Note that it was not the nudity of the Egyptians and Ethiopians that was shameful but their captivity.

That nudity was common among the prophets

is made clear also by I Samuel, 19 : 24. King Saul visited the prophets and the story concludes, "And he stripped off his clothes also, and prophesied before Samuel in like manner, and lay down naked all that day and all that night. Wherefore they say, Is Saul also among the prophets?"

The Roman and Grecian athletic contests of the New Testament time were always in the nude. Swimming was always in the nude. No one in that day dreamed of swimming with any clothing on the body. There is no doubt that when John baptized in the Jordan, Jesus and the others went down into the Jordan nude. This called for no comment at that time. It was entirely in harmony with the time and customs and was acceptable to all as a matter of course. Consider the clothing of that period. It would have been ridiculous to have done otherwise. Historians on the early church tell us that in the larger baptistries as well as in the outdoor ceremonies the rite of baptism was administered to the candidates in the nude.² Up to the thirteenth century baptising in rivers and lakes was always done in the nude, both sexes together, and the nude body was oiled

afterwards. Liturgical bathing before the great feasts was always done in the nude. It is true that the early Christians were segregated from the heretics but they established their own baths and they enjoyed their unsegregated nude bathing. The early Christians also had innumerable paintings of nude bodies in the catacombs and nudity was associated with purifying ceremonies.³

Nudity in some occupations was common. When the disciples were busy with their fishing nets and boats they often were nude. Evidently they saw nothing improper in disrobing when they could be more comfortable without their clothing. These interesting incidents are proof that even among the Jewish people the idea of the obscenity of the human body was not universal. Some evidently realized that uncleanness and obscenity were really in the mind of the beholder rather than in the body beheld.

It is easy for one, however, to become confused as to just what the Jewish attitude was toward nudity. Many conflicting statements are found. Nudity was common in Judea but the Bible abounds in statements of the taboo and its double character as "sacred" and "unclean" is rather

difficult to follow. The male organ was sacred among the old Hebrews and Jehovah used it as a sign of alliance between himself and his people. The phallus, with the Biblical Jews, was a sacred symbol, sworn by in oath.⁴ In Genesis 24, 2-3 and 47, 29 the word for penis is euphemistically translated *thigh* not only in the King James but in the new translation by James Moffatt. The truth is that the ancient Hebrews administered the most solemn oath by placing the hand of the testator on their testicles and the very words *testify*, *testament* are from *testis*, a testicle. Their sacred oath of calling on Asher or Baal as witness was another evidence of phallic worship.⁵ The act of procreation was thus regarded as the occasion when the actual divine presence was most clearly manifested. The Manichaeans and other Gnostic sects administered human sperm to communicants, mingled with the Eucharistic sacrifice.⁶ Paul held the view of the Tartars that "each human being is brought into existence by special divine interference." In 1st Corinthians 15, 37-38 he said: "And that which thou sowest, thou sowest not that body that shall be . . . but God giveth it a body." The Catholic Church teaches

that the soul of a human being "is created and united by God to the infant body yet unborn, which union is called passive conception." The Christian fathers could not understand how illegitimate children could be born at all, since they were in reality created by God and God condemned fornication! Mystic theology still holds to the idea that the sperm actually constitutes the substance of the Deity, who uses the male as a medium during sexual excitement. Thus chastity conserves the divine essence within man.⁷ This view was no more intelligent than the old pagan idea that copulation effected a closer communion with the divinity. The Manichaeans regarded Christ as identical with the first serpent who, according to current Jewish tradition, had sexual copulation with Eve in the Garden of Eden.⁸

It is very difficult to harmonize these views with the idea that the exposure of the human body in the nude was obscene. Such views are hard to reconcile with the attitude of Jesus and Paul and a large percentage of their followers toward marriage and sex generally and their interpretation of Genesis. Doctor Ilsley Boone's classification of all scriptural passages against

nakedness into three groups seems to be well established and there appear to be no injunctions against nakedness *per se* outside of those three groups but the classification does not help us to follow the thinking of the Jew in his strange distinction between the "sacred" and the "unclean." The more one extends his research, the more confused he becomes.

One sees a peculiar intermingling of two attitudes but one thing is sure. When antique civilization broke down, the conception of the obscenity of the organs of generation grew to enormous dimensions. That superstition grew because it was spread by the early Christians, and bodily shame and civilization grew in inverse proportion to one another. As nudity became less common, vice increased. The subligaculum, a bathing short, hid the sexual organs and this added to the thrill of seeing actors and actresses on the stage entirely nude. Thus the Roman people came to enjoy full nudity of the stage lasciviously instead of the wholesome enjoyment when nudity was an everyday affair.

Just as the superstition of the uncleanness and obscenity of the body grew with the years, so the

idea of the lower social status of woman and the prejudice against woman as the road to evil grew in intensity. The tradition that woman was created from the rib of sleeping man was certainly one of the causes of delay in making woman socially the equal of man by elevating the bond of love to a moral and religious institution, for after the fall she was told "thy will shall be subject to man." The Old Testament idea that woman is responsible for the fall of man became the foundation for Christian teaching. Eventually the real spirit of Christianity has conquered tradition and scholastic tenets and Christianity has finally raised the union of the sexes to a sublime position but we cannot ignore the fact that the social position of woman was long neglected by the Christian fathers.

Aside from the matter of divorce (Matthew 19 : 9) the gospels say not a word in favour of woman. Clemency is shown toward the adulteress and the penitent Magdalen but this did not affect the general position of woman. No doubt Paul was influenced by things in his own life and experience but there is evidence that he was also deeply influenced by a literal belief in the story of

man's fall and in the story of woman's creation from man's side. "I will therefore," says St. Paul in the First Epistle to Timothy, "that women adorn themselves in modest apparel, with shamefacedness and sobriety; not with braided hair, or gold, or pearls, or costly array; but (which becometh women professing godliness) with good works. Let the woman learn in silence with all subjection. But I suffer not a woman to teach, nor to usurp authority over the man, but to be in silence. For Adam was first formed, then Eve. And Adam was not deceived, but the woman being deceived was in the transgression. Notwithstanding she shall be saved in child-bearing, if they continue in faith and charity and holiness with sobriety."

In the Epistle to the Ephesians it is written: "Wives, submit yourselves to your own husbands, as unto the Lord. For the husband is the head of the wife, even as Christ is the head of the church: and he is the saviour of the body. Therefore as the church is subject unto Christ, so let the wives be to their own husbands in everything." In the First Epistle to the Corinthians it is written: "I would have you know, that the

head of every man is Christ; and the head of the woman is the man. . . . Every woman that prayeth or prophesieth with her head uncovered dishonoureth her head: . . . for a man indeed ought not to cover his head, forasmuch as he is the image and glory of God: but the woman is the glory of the man. For the man is not of the woman; but the woman of the man. Neither was the man created for the woman; but the woman for the man. . . . Judge in yourselves: is it comely that a woman pray unto God uncovered?"

Biblical authorities agree that the Genesis account of Eve's part in the temptation greatly prejudiced the fathers of the Church against woman. Tertullian (about 155–222 A. D.) said, "Woman, thou should ever go in mourning and sackcloth, thy eyes filled with tears. Thou hast brought about the ruin of mankind." Again Tertullian said, "The sentence of God on this sex of yours lives in this age. You are the devil's gateway. You destroy God's image, Man." St. Jerome (about 340–420 A. D.) had no better comment to make. He said, "Woman is the gate of the devil, the road to evil, the sting of the scorpion." (*De Cultu Feminarum.*)

The Provincial Council of Macon (sixth century) seriously discussed the question whether woman had a soul at all. Canon law declares: "Man only is created to the image of God, not woman; therefore woman shall serve him and be his handmaid." For centuries these opinions of the Church had a tremendous influence upon the peoples who embraced Christianity. Among the converted Germanic races the dower value of woman fell considerably.⁹ (Re the valuation of the two sexes among the Jews, cf. 3 Moses, 27 : 3-4).

We live now in a time when Christianity is the only religion in the world which exalts womanhood and it is difficult for us to realize that during the first centuries Christianity degraded woman to an extent which has rarely, if ever, been equalled in history. Woman lived in despair at the very time when Christianity offered the only hope of mankind. The Christian message was not one of degeneracy. It was not a time of moral deterioration. Tragic though it was, early Christianity was a message of hope for men and a message of despair for women.

I know that many readers will be startled at these statements but we must face the facts. In-

stead of showing resentment, we must resolve to get the truth. To many of us Christianity is a personal thing. Not only do we try to live the ideals which were taught and lived by Christ but we include in our conception of Christianity some ceremonies and habits which come down to us from early Christians to whom these habits and ceremonies meant something very real. To us they mean nothing but tradition yet we conform. Millions of people will eat fish on Friday but no meat as they use that word. Why? They do not know. Several thousand years ago fish were considered less impure because they are not the result of sexual copulation. Most of those who eat fish only on Friday would now scorn the idea that fish are more pure than animals propagated by sexual copulation but the tradition holds them just the same.

Among all the enemies of woman, early Christianity waged a war as implacable as has ever been waged against her. Any measure to increase suffering and contempt to woman was exalted by the Church fathers. Any savage or pagan move to give happiness to woman was fought bitterly by the early Christians who believed woman defec-

tive intellectually, friend of the devil, sometimes worse than the devil, sometimes the devil in disguise.

The first five books of the Old Testament are filled with the most degrading superstitions which heaped on woman the bitter sting of the Christian Church. Childbirth made a woman unclean. Woman had to be cleansed with an offering for her sin. Blood was the symbol of life and childbirth involved its expenditure. Woman had to be excluded as long as there was any danger of man coming in contact with this. There was some excuse for sinning if the woman added a child of the desired sex to the population but if the child was a girl the penalties were doubled. If the child was a boy, the woman was unclean for seven days and could not touch any hallowed thing or go into the sanctuary for thirty-three days. If the child was a girl, the mother was unclean two weeks and had to continue in the blood of her purifying for sixty-six days during which time she could not touch any hallowed thing or go into the sanctuary. Read Leviticus 12 : 1-7. In the fifteenth chapter we read that a man with "running issue out of his flesh" was unclean. His bed,

his clothes, his chair, his saddle, his drinking cup were all segregated. Of course women were so afflicted periodically and hence they felt the taboo and restrictions more than did the men. Menstruation apparently was no part of God's plan. Deuteronomy 12 : 15-25.

Through Paul, Genesis and Deuteronomy became the basis of Christian doctrine toward woman. Through Paul and a long line of teachers, these passages were the basis for making women expiate through the ages the bringing of sorrow and death into the world; subjecting women to many wrongs, temporal and spiritual; treating them as inferior and subjecting them to abuse from fake superstitions.

III

THE MYTH MODIFIED BUT DAMAGE CONTINUED

Of course the Jewish race did not die out. All people could not be persuaded to abstain from all sexual intercourse but for a time the idea of abstinence prospered because among the early Christians the idea prevailed that the end of the world was near and of course it was unnecessary to make provision for the propagation of the race. It was not an age of birth control. Sexual copulation meant children. To have children perpetuated the world. Childbirth was regarded as the result of carnal sin to be expiated in accordance with Genesis 3 : 16. As a consequence of this terrible superstition, the rate of infant and maternal mortality during the first fifteen centuries of the Christian era rose to a point unknown to the ancient civilized world.

The years passed and Jesus did not return. The world showed no signs of coming to an end and people did show signs of being wicked and

breaking away from abstinence. The Christians had to change their attitude and finally came the idea that the body was wicked and obscene to everybody save one person, the husband or the wife and even there many were still doubtful. St. Paul treats in First Corinthians of the general subject of marriage. "It is good," he says, "for man not to touch a woman. Nevertheless, to avoid fornication, let every man have his own wife, and let every woman have her own husband. . . . I say therefore to the unmarried and widows, It is good for them if they abide even as I. But if they cannot contain, let them marry: for it is better to marry than to burn. . . . He that is unmarried careth for the things that belong to the Lord, how he may please the Lord: but he that is married careth for the things that are of the world, how he may please his wife. There is a difference also between a wife and a virgin. The unmarried woman careth for the things of the Lord, that she may be holy both in body and in spirit: but she that is married careth for the things of the world, how she may please her husband."

Dr. Edward Westermarck, Professor of Sociol-

ogy in the University of London, in his book, "A Short History of Marriage," 1926, shows how the use of marriage was permitted only as a necessary expedient for the continuance of the human race, as a restraint on licentiousness of desire, how the procreation of children was the measure of a Christian's indulgence in appetite and how these opinions led to the obligatory celibacy of the secular and regular clergy. Doctor Westermarck's statement that this view of marriage was held by a small class of Hebrews does not check with the statements of other equally well-known authorities. There seems to be an abundance of evidence that more than a small class of Hebrews looked upon the body as obscene and celibacy as preferable to wedlock but, otherwise, the quotation is accurate.

A view of marriage which greatly differed from that generally held by the ancient peoples of culture was taken by a small class of Hebrews, who looked upon marriage as impure. The Essenes, says Josephus, "reject pleasure as an evil, but esteem continence and the conquest over our passions to be virtue. They neglect wedlock." This doctrine exercised no influence on Judaism, but perhaps much upon Christianity. St. Paul considered celibacy to be preferable

to marriage. "He that giveth her (his virgin) in marriage doeth well; but he that giveth her not in marriage doeth better." "It is good for a man not to touch a woman. Nevertheless, to avoid fornication, let each man have his own wife, and let each woman have her own husband." If the unmarried and widows cannot contain let them marry, "for it is better to marry than to burn." These and other passages in the New Testament inspired a general enthusiasm for virginity. Commenting on the words of the Apostle, Tertullian points out that what is better is not necessarily good. It is better to lose one eye than two, but neither is good; so also, though it is better to marry than to burn, it is far better neither to marry nor to burn. Marriage "consists of that which is the essence of fornication"; whereas continence "is a means whereby a man will traffic in a mighty substance of sanctity." The body which our Lord wore and in which He carried on the conflict of life in this world He put on from a holy virgin; and John the Baptist, Paul, and all the others "whose names are in the book of Life" cherished and loved virginity. Virginity works miracles; Mary, the sister of Moses, leading the female band, passed on foot over the straits of the sea, and by the same grace Thecla was revered even by lions, so that the unfed beasts, lying at the feet of their prey, underwent a holy fast, neither with wanton look nor with sharp claw venturing to harm the virgin. Virgin-

ity is like a spring flower, always softly exhaling immortality from its white petals. The Lord Himself opens the kingdoms of the heavens to eunuchs. If Adam had preserved his obedience to the Creator he would have lived for ever in a state of virgin purity and some harmless mode of vegetation would have peopled Paradise with a race of innocent and immortal beings. This opinion was held by Gregory of Nyssa and, in a later time, by John of Damascus. It was opposed by Thomas Aquinas, who maintained that the human race was from the beginning propagated by means of sexual intercourse, but that such intercourse was free from all carnal desire. It is true that, though virginity is the shortest way to the camp of the faithful, the way of matrimony also arrives there, by a longer circuit. Tertullian himself opposed the Marcionites, who prohibited marriage among themselves and compelled those who were married to separate before they were received by baptism into the community; and in the earlier part of the fourth century the Council of Gangra expressly condemned anyone who maintained that marriage prevented a Christian from entering the kingdom of God. But at the end of the same century a council also excommunicated the monk Jovinian because he denied that virginity was more meritorious than marriage. The use of marriage was permitted to man only as a necessary expedient for the continuance of the human race and

as a restraint, however imperfect, on the natural licentiousness of desire. The procreation of children is the measure of a Christian's indulgence in appetite, just as the husbandman sowing the seed into the ground awaits the harvest, not sowing more upon it. These opinions led by degrees to the obligatory celibacy of the secular and regular clergy.¹

The Encratites sought to compel the church to take the position that marriage was absolutely wicked. They demanded that no Christian convert should marry. Those already married were required to separate. They encouraged marriages which were not to be consummated by sexual copulation, calling such "wives," "spiritual wives." They even openly advocated self-castration.²

The Manichaeans held that "in every act of begetting, human or otherwise, a soul is condemned afresh to a cycle of misery by imprisonment in the flesh," so they abstained from eating all animals whose birth was due to copulation. They ate fish only and from their custom came the Catholic custom of eating fish on Friday or days of fasting.³ The formation of the world was considered the work of good spirits but man was

created by the princes of darkness. The first man, Adam, was engendered by Satan in conjunction with "sin," "cupidity" and "desire." Satan gave Eve to Adam as his companion. Eve was seductive sensuousness. Adam fell under the temptation of sexual desire. Seth was the offspring of Adam and Eve but Cain and Abel were the offspring of Satan and Eve. In the course of history the demons sought to bind men to themselves through sensuality, error and false religions. Good spirits saved men by calling them away from sensuality,—sexual copulation.⁴

The Ebionites held to the Mosaic law. They insisted that to be a good Christian, one had first to be a good Jew. Many of them held to the ascetic faith of the Essenes who refused to marry because they would have nothing to do with women. They had a very low estimate of women but sometimes adopted children. Not all Ebionites went that far. Some looked upon marriage as a necessary social institution.⁵

We must remember that before Christianity gained the ascendancy the amorphous fertility-religions of Asia Minor, the Greek philosophy and the Roman practical genius were the chief

forces of influence. The first became an anachronism when intelligence and logic modified mysticism; the second offered women nothing, not even the power to reason; the third was breaking under the decay of imperialism, militarism and luxurious living and was not in position to give woman any protection by a guaranteed legal status. Christianity finally triumphed by absorbing all these other forces in some modified form. The idea of the immaculate conception, the doctrine that the Virgin Mary was conceived without original sin, and the idea of the virgin birth of Jesus were simply the product of the distorted concept of sex as obscene as pictured in Genesis and Deuteronomy.

It would seem that Dr. Westermarck is moderate in his statement that the Lord opens the kingdoms of the heavens to Eunuchs (see Isaiah 56 : 3-5), and apparently Jesus had no rebuke for those who castrated themselves. Christ answered the Pharisees who had asked if it was lawful for a man to put away his wife for any cause. He had named fornication as the only ground for divorce and had stated that to put away a wife on any other ground was to commit

adultery and for a man to marry a divorced woman was to commit adultery. The Pharisees said that if that was a man's position with his wife, there was no good in marrying. Jesus said to them, "True, but this truth is not practical for everyone, it is only for those who have the gift." See St. Matthew 19 : 12. The King James translation is as follows:

For there are some eunuchs, which were born from their mother's womb; and there are some eunuchs which were made eunuchs of men; and there be eunuchs, which have made themselves eunuchs for the kingdom of heaven's sake. He that is able to receive it, let him receive it.

Jesus was a great teacher and he taught and lived ideals which are the world's greatest need today but his knowledge of science, philosophy, history, psychology, psychiatry and eschatology was limited to the knowledge of his day. Jesus based his teachings on those of the earlier prophets. Without his interpretation and final synthesis, those earlier teachings would be incomplete. Intellectual honesty compels us to say, however, that Jesus was mistaken in his idea that he would soon return and he was a victim of the confused

thinking of his time in his view that it was better not to marry and that castration was good for all who could receive it. Few ideas in history have done more harm than those two.

The disappointment at Jesus' failure to return drove the Christians to the other worldliness and ceremonialism of the popular mystery cults which appealed strongly through their elaborate ritual and their promises of individual happiness beyond the grave and led eventually to monasticism and asceticism which for more than twelve centuries blinded men's eyes to the real meaning of Jesus' social gospel.

Jesus took Genesis to be fact rather than legend. This acceptance of the point of view of his time led to his endorsement of castration as a means of better fitting the men for heaven. It was a corollary of the idea that childbirth was the result of a carnal sin to be expiated in accordance with Genesis 3 : 16. Adam had "fallen," as a result of Eve's temptation, to sexual copulation. God had never planned the propagation of the race by such a carnal method! God had intended that some harmless mode of vegetation people Paradise with a race of innocent and immortal

beings! People, as all the animals, were made male and female but sex was obscene and indecent! Poor Adam was tempted by Eve and fell! Mankind has been cursed ever since! What a God! No wonder the monks tried to find a way of obtaining eggs without hens!

Immediately after Jesus made that statement about eunuchs, children were brought to Jesus that he might lay his hands on them and pray over them. The disciples objected, but Jesus said, "Suffer little children and forbid them not to come unto me; for of such is the kingdom of heaven." That was better advice. We love children and agree with what Jesus said about them. Even so children are the product of marriage and sexual copulation. The realm of heaven belongs to such as these. Children inspired a great utterance which was hardly compatible with the previous comment depreciating marriage and commending castration.

It was the denunciation of manifestation of the sexual instinct as evil that led to the propagation of the idea that Jesus was born of a virgin. Such stories were very common in that day when all sex was deemed wicked. Jesus himself never

made mention of the manner of his conception and we have no direct testimony of Mary. There is no evidence that Paul considered the life of Jesus other than human or his beginning exceptional or miraculous. Paul declared emphatically that the resurrection of Jesus was vain if it did not imply a like destiny for all the sons of men. The idea of the virgin birth given in Matthew and Luke had no confirmation in Paul's letters. Instead, Paul stated his conviction that Jesus was born of the seed of David according to the flesh and declared to be the son of God by the quality of his life. This sonship was not peculiar to Jesus. We are all the sons of God, and if sons, then heirs, heirs of God and joint heirs of Christ. Paul gives Christ an exalted place but subordinate to God. He never speaks of Christ as God. The Greek word "Christ" is simply the Hebrew "Messiah," a strictly human deliverer. The Greek "Kurios" or "Lord" is simply the Hebrew rabbi or Master, a title of respect or honor and entirely consistent with normal humanity. Mark, the first to write, and John, the last of the four to write, make no mention at all of any virgin birth of Jesus and the fourth gospel is considered the

best for it was the outcome of long reflection on the subject. Matthew interpreted Isaiah. Luke covers the birth and lineage chronologically from David through Joseph the father. Matthew has the angel speak to Joseph. Luke has the angel speak to Mary. Matthew has the announcement to Magi by the star. Luke has the announcement of the child to shepherds near Bethlehem. Both agree that Jesus was born in humble surroundings and had Davidic descent through Joseph. If Joseph was not the father, such Davidic descent was a fraud. Matthew tells of the immediate flight to Egypt to escape the persecution of Herod. Luke has the child first taken by the parents to the temple to be presented before the Lord and there were found the aged Simeon and Anna the prophetess. That Mary, Jesus, Mark, John and Paul would overlook entirely any essential detail in the manner of Jesus' birth is certainly unreasonable, to say the least.

It is amazing that millions of people who have entirely broken away from the old twisted distorted idea that sex was unclean and wicked still cling to the equally absurd idea that Jesus came into the world without sexual copulation. They

believe that God gave us the plan of the propagation of the race and then threw aside His own plan as unworthy. Biology is God given. God's biology was worthy when Jesus came just as when all others have come into the world.

It would be well for us to see what was the effect of that old twisted, distorted conception of sex as unclean and obscene on those who propagated the superstition centuries ago. Wherever the religious emotions surge up, the sexual emotion is always close by. The spiritualized sentiment is never separate from the physiological and psychological basis. Sexual instinct, when disappointed and unappeased, frequently seeks and finds a substitute in religion. Sexual aberration is often the cause of religious insanity. The relation between religious and sexual feelings can be established, according to Dr. R. V. Krafft-Ebing, even where psycho-pathological conditions are diagnosed beyond dispute. One may observe in psychosis a mixture of sexual and religious delusions. Women lunatics imagine that they are or will be the Mother of God. The statement is borne out by the cruel sensual acts of violation, chastisement, emasculation and even

crucifixion which religious maniacs have perpetrated on themselves.

Long before modern anthropological and ethnographic research in the domain of primitive causes recognised the primary feeling of dependence as the primary element in religion, Schleiermacher had reached the same conclusion.

If considered as psychological factors, religious yearnings and sexual inclinations are composed of two elements. Analogous instances are very frequently presented and make very difficult any explanation of the psychological relations between religion and love.

The early Christians secretly craved that which they so fiercely denounced. The obsessing denunciation of sex which permeated the literature of the time was the unconscious protest of those poor exasperated victims who were denying themselves that which they craved. St. Jerome, who did not bathe for forty years, said:

How often when I was living in the desert which affords to hermits a savage dwelling-place, parched by a burning sun, did I fancy myself amid the pleasures of Rome! I sought solitude because I was filled with bitterness. . . . I, who from the fear of hell had

consigned myself to that prison where scorpions and wild beasts were my companions, fancied myself among bevvies of young girls. My face was pale with the cravings of desire, and the fires of lust flared up from my flesh that was as that of a corpse. I do not blush to avow my abject misery.

Robert Briffault, in *Sex and Religion* shows how the primal function of the primitive religious magic of generations is re-echoed throughout the long line of female votaries of the Divine Bridegroom, in the lascivious ecstasies of a St. Theresa, of a St. Catherine, of a Madame Guyon. In 1925, a Norman Carmelite nun, Therese Martin, was added to the list of Catholic Saints under the title of St. Theresa of Jesus, on account of her transcendent devotion to her spiritual spouse. In the collection of devotional thought she had contributed, she exclaimed:

Ah! how sweet is the first kiss of Jesus! Indeed it is a kiss of love. I felt myself beloved by him, and I said to him, "I love you, I give myself to you for ever." Jesus and myself have for a long time understood each other. Our coming together was a fusion of our being. . . . My heaven is no other than that of Love, I have felt that nothing could detach my ardour from the divine being who has ravished me.

The lives of the saints are replete with remarkable records of such temptations. Friedreich (*gerichtl. Psychologie*, p. 389) quotes numerous examples. Blankebin, the nun, was constantly tormented by the thought of what could have become of that part of Christ which was removed by circumcision. Veronica Juliani, beatified by Pope Pius II, in memory of the divine lamb, took a real lamb to bed with her, kissed it and suckled it on her breasts. St. Catherine of Genoa often burned with such intense inward fire that in order to cool herself she would throw herself upon the ground crying, "Love, love, I can endure it no longer." At the same time she felt a peculiar inclination towards her confessor. One day lifting his hand to her nose she noticed a peculiar odour which penetrated to her heart a heavenly perfume that would awaken the dead. St. Armelle and St. Elizabeth were troubled with a similar longing for the Infant Jesus. The temptations of St. Anthony of Padua are well known. The old Protestant prayer is significant: "Oh! that I had found thee, blessed Emanuel; that thou wert with me in my bed, to bring delight to body and soul. Come and be

mine. My heart shall be thy resting place."

Dr. Krafft-Ebing in *Psychopathia Sexualis*, Chapter II, "Physiological Facts," tells of the significance of flagellation as a sexual excitant in the lives of the two heroines of flagellation, Maria Magdalena of Pazzi and Elizabeth of Genton.

Maria Magdalena, daughter of distinguished parents, was a Carmelite nun in Florence about 1580. By her many flagellations and the results of them she became quite famous. She found great pleasure in having her hands bound behind her back and her naked loins whipped in the presence of the sisters assembled. From her earliest youth this pleasure was enjoyed until her nervous system was destroyed. No wonder she had hallucinations. While being whipped she always thought of love. The inner fire threatened to consume her and she often cried, "Enough! Fan no longer the flame that consumes me. This is not the death I long for; it comes with all too much pleasure and delight." Poor Maria Magdalena was several times near losing her chastity for the spirit of impurity inspired the most sensual lascivious fancies.

Elizabeth of Genton had the same experience.

From her whippings she passed into a state of sexual orgy as she believed herself united with her "ideal." As she thus stimulated her passion, she would cry out, "O love, O eternal love, O love, O you creatures! cry out with me: 'Love, Love!'" "

In 1634, Father D'Urbain Grandier, Roman Catholic curate of St. Peters, Loudun, France, and Canon of the Church of the Holy Cross, was burned alive at the stake. What terrible thing had he done? He had appeared to the Ursuline nuns of Loudun in their dreams as their seducer. He stimulated sensual dreams. By means of magic he had carnally bedeviled the nuns and the poor nuns testified against him. They swore that by supernatural magic Father Grandier projected his body invisibly through the walls of the convent and had carnal copulation with the consecrated virgins who had never even seen him, except by this supernatural magic. Thus, Father Grandier, by the help of Satan and his disembodied spirit, was guilty of adulteries and fornications with many pious women who would never have considered for a moment the yielding of their bodies to Father Grandier in the flesh.

The examination lasted forty days. Father Grandier had introduced himself spiritually into the convent by day and night for four months without anyone knowing how he got in. Besides the nuns and six lay women, sixty witnesses testified to spiritual adulteries, incests, sacrileges and other crimes committed by Father Grandier. Sister Clara fell into convulsions, blaspheming, rolling on the ground, exposing her person in the most open manner, without a blush, until she caused all who looked at her to hide their eyes in shame from her lascivious and foul actions and expressions. She had never seen Father Grandier, but she called him by name and said he should be her lover. After an hour's performance, she prayed.

Fellow priests were the judges. Civil authorities were the executioners. This was the same psychologic fallacy which occurred so frequently in witchcraft. The nuns and other women, suffering from sex suppression, had erotic phantasies, in which Father Grandier participated as would a physical lover could they have enjoyed such. Such visions and dreams are quite usual, as every informed person knows, under unusually

morbid conditions. Of course those women could not admit and did not know their erotic dreams were the result of their own organic need. Ecclesiastical erotophobia made admission of sex suppression impossible. They had to defend themselves against any such imputation. They dreamed of sexual copulation with Father Grandier's spirit, and they gave it the reality of his physical presence and a seductiveness which was superhuman. They were helpless and God was powerless against the devil and his satanic magic so they were without protection!

But why become aroused at the fanatical ranting of people many hundreds of years ago? We recognize now that sex has its proper place. Those Christian fathers did not succeed in bringing about the extinction of the human race. Enough people persisted in being wicked to continue the species. Are not our present ideas of the obscenity of the human body and the indecency of the exposure of the genitalia in public the mature fruit of human experience, accumulated through centuries? Are not our present ideas the mature conclusions of human wisdom? No; not at all. Our present superstition of the

obscurity of the body is based upon these fanatical ideas. Those misconceptions of the poor, deluded, delirious minds are the foundation of the abominable superstition which has since prevailed in the tradition of our Western Christian civilization. Only uninformed people regard these standards of today, the alleged indecency of the human body, as the mature fruit of accumulated human experience. In reality these ideas are the abominable inheritance which has come down to us from the bigoted, narrow-minded, intolerant, fanatical, deluded souls who suffered delirium many centuries ago. People must be made to understand this. It is very unfortunate that a great many people are still under the impression that our present attitude toward the body, and especially the organs of reproduction, (as obscene) is the creation of civilized man and think this view is the only pure attitude and the very climax of moral achievement. Such a view has no foundation save in the desire of people to continue to believe what they had been taught and have believed. It is true, as Doctor Frankwood E. Williams has suggested, that it has been a disastrous policy to refer to the sex organs as

“privates” or “private parts” inasmuch as they are really no more private than the rest of the human anatomy. This unfortunate conception of the unique privacy of sex organs is a development of the old vulgar monastic idea of the shame and sin of all sex behavior and discussion as unclean and indecent and it has given us a very unclean and hypocritical “refinement” which has filled the world with ignorance and pain and diseased bodies and minds. Again we repeat it. Such ideas are the hideous survival of the delirious, fanatical misconceptions of those who laid the foundation of the confused standards of sexual morality and the superstition of the body’s obscenity which have been current down to our own time.

Historically, the body taboo has taken many forms, as mentioned in the previous chapter, but all come from this same source. Many of the anchorites, the hermits, who renounced the world and secluded themselves for religious reasons, held it sinful to contemplate one’s own body. If I have been correctly informed, this complete taboo has been inculcated in some modern girls’ schools as well as in nunneries. The taboo to exposure of the body before anyone, even

those of one's own sex, called the objective taboo, is a degree less rigid. Another form, still less rigid is the familial taboo, which forbids exposure as between parent and child or even between husband and wife. I have known a few married people who told me that they had never seen each other entirely nude. It is very common for parents to refrain from going before their children nude. The intersex taboo, that it is indecent for one to expose the body before one of the opposite sex, is most prevalent and is the taboo now the breaking of which has been interpreted mistakenly by some courts of the law as constituting a violation of the law against lewdness, lasciviousness and obscenity. A great many people seem actually surprised and grieved that God did not contrive a less indelicate manner of continuing the species. The medical profession has vastly reduced the rate of infant and maternal mortality which resulted from the mentality of the first fifteen centuries of the Christian era when childbirth was regarded as a carnal sin to be expiated in accordance with Genesis 3 : 16, but so far neither doctors nor laymen have been able to break down the barriers that keep from the youth

the truth about marriage and parenthood. The process of racial reproduction is still regarded as a divine mystery which should not be penetrated although there is no more mystery about bringing a child into the world than there is about bringing a calf into the world, a process that children on the farms know all about before they reach the age of puberty. But superstition still reigns. Parents lie to their children and in later years when the children get their first information of the origin of life, they are shocked at the idea that they are conceived in indecency and born in iniquity.

We have seen what damaging effect asceticism has had on our ideas of sex and the exposure of the human body. When we read about the daily baths of the Romans, of their splendid and extensive bathing establishments after the time of Agrippa, of how the people bathed daily to be healthy and looked upon their baths as a real necessity of daily life, we wonder how asceticism made such headway in the propagation of the idea that filth was piety and cleanliness a sin. It has taken many hundreds of years to get even part way back to the appreciation of cleanliness

which existed in the days of the baths of Titus (A. D. 81), Domitian (A. D. 95), Trajan (A. D. 100), Caracalla (A. D. 217), and Diocletian (A. D. 302). The baths of Caracalla accommodated three thousand people and those of Diocletian some eighteen thousand. The Roman interest in bathing grew to such proportions that under Constantine I, known as "The Great" (288?–337 A. D), some nine hundred public bathing places existed.

At a housing conference in London, Dame Beatrix Lyall quoted the following from a gossip sheet of the time of Queen Elizabeth:

The Queen hath built herself a bath where she doth bathe herself once a month, whether she require it or no.

Amazing at the first gasp to us, remarks Mary A. Clarke in the *Trained Nurse and Hospital Review*, but, on second thought, not so very surprising when we consider that the first bathtub in the United States was built in Cincinnati in 1842. It was made of mahogany, lined with sheet lead, and was exhibited at a Christmas party. The

next day the local papers denounced it as a luxurious and undemocratic vanity. Then the medical men took the matter up, and pronounced this bathtub a menace to health.

In 1843 Philadelphia undertook by ordinance to prohibit all bathing between November 1 and March 15. Two years later Boston made bathing unlawful except when prescribed by a physician. The very fact that such a law was deemed necessary would indicate that some people were interested in cleanliness but those so interested must have been a small minority. The majority seemed to think that cleanliness was sin or poison. Boston had no street cleaning department. Pigs roamed the streets as scavengers, protected by law. In Virginia about the same time bathtubs were taxed \$30.00 a year.

In Europe modern plumbing has come into use much more slowly than in our country, although the English have long been familiar with the portable tub, made of rubber cloth, suspended on a frame, and capable of being rolled up. A few years ago, one of our Ambassadors to Great Britain, in one of his letters, said of the

English: "They don't really like bathrooms yet. They prefer great tin tubs, and they use bowls and pitchers when a bathroom is next door."

We smile at the conditions in other countries but what about the United States? Some nine million homes in this country have no bathtubs and millions of people know nothing of a daily bath. Only two houses out of three have tubs. There was one in the White House when Lincoln was President, and when President Cleveland wanted to have a second one put in, members of Congress made speeches denouncing the bad example of luxury which the President would set! The old Saturday night bath is the usual thing in many homes, and in many homes a weekly bath would be a blessing. There are still sections where children and adults are "sewed up" in their winter underwear for the winter. A few days ago I heard of a girl who was getting ready to go out to an evening party and she called down to her mother, "Mother, shall I wash for my low neck or my high neck dress?" I have actually heard some people argue that baths are very weakening and I knew of a woman out in Kansas who had bought a new home, moved into town and then

had the fine new bathtub torn out because she would not live in a house with one of those "chinie" bathtubs in it. We have made some progress since St. Jerome went forty years without a bath and even since the laws of 1843 and 1845 in Philadelphia and Boston but we have not yet lived down entirely the effect of the fanatical idea of the Christian fathers that cleanliness was sin.

What the author has said in Chapters II and III must not be taken as an attack upon the Church. The writer has been active in Church promotion work most of his life and was employed by the largest protestant denomination for many years. He recognizes the great good done by the Church but feels that the Church has a very large responsibility for the alleged uncleanness of sex. The Church has stood as a bulwark against proper sex knowledge and sex decency and will continue so to stand as long as religion teaches that humiliation and punishment of the body elevates and helps to save the soul. As long as the Church is bound by the superstition of the obscenity of the body, it will be seriously handicapped in shaping the conduct of individuals, society and nations.

Some of its past and present teachings must be discarded before real progress can be made in the vital work of doing justice and loving mercy and walking humbly with God. Devoted loyalty to God and justice and love toward man are three basic social virtues and each reinforces the others. They have not and never can be realized while the Church propagates the most damaging superstition the world has ever known, the reputed uncleanness of sex, the indecency and obscenity of the human body.

Christianity must see that the uncleanness, the indecency, the obscenity lies in the improper use of sex, the wrong mental attitude toward sex. The body is not obscene but man's mind may be obscene. Sex is not unclean but the improper use of sex is unclean and indecent. It is true that sex may degenerate into the basest vice and the lowest passion if man is to gratify lust alone but, properly used and enjoyed, sex inspires the beautiful and the sublime, the greatest virtues. Sex is a mighty force in the individual and social advancement of man. Sexual feeling is the root of all ethics and, according to Krafft-Ebing, even of aestheticism and religion itself. Abused, it is a

volcano that destroys honour and health and happiness but the Church must discriminate between the proper and improper. A clean and wholesome creation of God has been twisted into a hideous thing, obscene and indecent and for nearly two thousand years the world has paid a terrible price for this damnable superstition, the most damaging superstition the world has ever known.

IV

THE MODESTY CONCEPT NOT INNATE BUT CONVENTIONAL AND VARIABLE

Modesty is not innate as most people seem to think. It is entirely conventional in its nature and extremely variable. Different races have entirely different ideas and change their ideas from generation to generation. For many years Mohammedan women needed to cover only the face. Chinese women considered it very indecent to show their artificially bound feet. In Sumatra and Celebes exposure of the knee is immodest. In Central Asia exposure of the finger tips is immodest, and in Samoa the navel is similarly regarded. Among some peoples, modesty forbids the exposure of the male organ of generation but complete nudity for the women is entirely proper. Among some other people the conditions are reversed. In Tahiti and Tonga clothing may be discarded without immodesty if one is tattooed. A Carib woman may not go out unpainted, but she

may go without her girdle or loin cloth. In Alaska it was very immodest for a woman to be seen without the usual plugs between her lips. In Egypt it would be the height of indecency for an Arab woman to appear with the top and the back of her head uncovered. Similarly, it is obscene to expose the neck in modern Jerusalem, however innocent it may be elsewhere. In New Britain any clothing at all is indecent. Even a scrap of clothing among the Salira is a badge of harlotry. Decent women wear nothing at all. On the island of Bali in the Dutch East Indies, where the respectable dowager goes naked from the waist up, the harlot wears a scarf across her breasts as an insignia of her calling.

During the Middle Ages it was the custom of ladies of rank to give a bath to a visiting knight as a mark of hospitality. In that same period the character in the Passion Plays representing Christ was naked on the stage. In Japan a very modest Emperor at one time decreed that both men and women must follow the custom of the Occident and wear clothing to cover the genital organs while in bathing. The Japanese people continued their custom of playing around the beach entirely

nude and then, with no idea of disregarding the order of the Emperor and with serious desire to follow the edict, they put on trunks just before going into the water! Knowing nothing of our Occidental modesty, they did not understand why they were to cover the genitals while in the water. Thus in Japan it has been very common for both sexes to take baths together without clothing, but the nude in art is improper. It is very difficult for us to understand why in a country where nudity in nature is very common and where women perform the national dance in the nude, nudity in art should be considered improper but it was found at the Jubilee Exhibition at Kyote that disgust was provoked by a painting of a naked woman. In England the nude in art meets no reproach, yet mixed bathing in the nude is not tolerated and even mixed bathing in full costume is not at all universal.

There is no nudist movement in the Scandinavian countries for there is no need of any such movement. Nudity there extends back beyond the reach of memory or record. It is indefinitely ancient and is everywhere accepted as custom. The Swedish people wonder why there should be need

of any nudist movement in the United States or anywhere else. They take off their clothes on the front porches of their seashore homes and stroll, men and women guests and hosts and children together, to the beach. Nudity has no relation to obscenity or indecency and the people do not understand our superstition of the body's obscenity. The bathing suit is an importation that has gained little use except on public beaches near cities subject to foreign influence. While it is true that such public beaches have been somewhat influenced by the superstition of the body's obscenity, the organized movement in Europe toward social nudism may now serve to protect native custom from further invasion of the demoralizing superstition that the human body, or exposure of the human body, is indecent and obscene.

The situation is the same in Russia. Nudity goes back to time immemorial. The superstition of the body's obscenity has had no opportunity to do its damage. The bathing suit has gained practically no ground at all. Nude bathing continues there just as it did under the Czars when the aristocrats and the common people bathed entirely in the nude on the fashionable Crimean

beaches. Russia has not been affected by any European false sense of modesty and there does not seem to be any indication that the U. S. S. R. will be affected by alien modesty fanaticism.

We do not need to go outside the field of our own memories to find numerous illustrations of how extremely variable is modesty in our own country. A generation ago any behavior which revealed even an ankle was deemed disgusting and short hair and short skirts almost marked a woman as of loose character. Men used to watch women step on and off a street car to get a glimpse of an ankle! The first short skirts of the bicycle days were terribly shocking. Today we are accustomed to short hair and complete exposure of legs with other parts of the female form more revealed than hidden by modern clothes and they are not held to be an indication of immoral or disgusting behavior. For generations the social pattern for women required long dresses but when silk and rayon stockings came into vogue women took to short skirts without any hesitation. Skirts went from ankles all the way up to the knees and are now part way down again. Right now we do not know whether they will go up again or down

farther first. In the Nineties and even later, a lady would not have been permitted on the beach with the one piece suit worn universally today.

In all civilized countries what is permitted at certain times and places is forbidden at other times and places. A woman will expose far more of her person at night in the theatre or ball-room than would be deemed proper by day in the street. Modern bathing suits now considered proper on the beach would be taboo in the town though this is changing in some localities.

The following Associated Press dispatches appeared on June 16 and 17, and July 23, 1935.

SHOCKED YONKERS STARTS A ROUNDUP OF GIRLS IN SHORTS

Five young women, handed summonses today for appearing on the streets of Yonkers in shorts, will be treated to the sight of themselves as others see them—and in the movies at that.

The women were ordered into court tomorrow on the complaint of Alderman William Slater who said he had been besieged by the objections of citizens at having their Sunday afternoon veranda-gazing monopolized by young women in bare legs sauntering about the streets.

Slater said he found an ordinance providing a fine for appearance on the streets of Yonkers "in scanty attire."

The five girls were taken at random from the bevvies of shorts-wearers and herded into the police station. However, lest they should appear in court tomorrow still wearing their shorts, it was thought best to present only photographic evidence of their "scanty attire."

A movie cameraman was called, and before interested policemen the five paraded while the camera whirled.

Then they were permitted to go home.

CLUB WOMEN ASSERT RIGHT TO WEAR SHORTS ON STREET

Miss Florence Parsons, executive secretary of the Woman's Institute, an organization of Yonkers club women, today came to the defense of four young women who were haled into City Court, warned by Judge Martin Fay that Yonkers would not tolerate the wearing of shorts on its streets, and released.

CONEY JUDGE PROCLAIMS ISLAND NO NUDIST CAMP

Reform hit Coney Island in a big way today with jail terms and fines handed out to those hardy individuals who walk the streets in uncovered bathing suits or shorts.

"It's vulgar, indecent and selfish to walk around streets without covering from the shoulders to the knees," said Magistrate Thomas F. Casey. The same applies to women who walk on the streets in abbreviated costumes that would not be tolerated in burlesque houses."

The revelation of the female form is within the present standards of permissive acts and the variation in such revelations depends upon the time of day, the place, the function and the group to which the girl belongs.

Some writers have ascribed the origin of clothing to a primitive *modesty* instinct which would make the body taboo a native or inherent trait of the human race. Prof. John C. Fluegel, of the University of London, in his book *The Psychology of Clothes*, reviews the various theories at great length and his treatment is very thorough and well-balanced, save for his interpretation of the phenomena in terms of a rather far-fetched sex symbolism. Havelock Ellis, Dr. Erwin Wexberg, Surin, Langdon-Davies, and Wundt and others such as Dunlap, Sanborn, and Bliss also treat the modesty response and body taboo.

No one knows precisely how modesty devel-

oped within historic periods covered by anthropological research. One theory is that modesty originated when man began to walk upright and was compelled to protect his exposed genitals. Another possibility mentioned is that modesty originated when stricter laws governing sexual intercourse were substituted for previously existent promiscuous sex relations. The change may have been effected because the covering of the sexual organs was a symbolic sign of the taboo of sex and perhaps because of economic reasons. Wexberg suggests the possibility that modesty, by excluding the exhibitionistic stimulus, made obedience to the law easier but it is far more probable that the explanation is that covering the sexual organs increased the erotic lure. In some places women go naked until they are married and then they wear clothes to attract their husbands. Whatever the origin, it is probable that modesty is a relatively recent acquisition in the phylogensis of the human race. In any case, modesty is not a hereditary instinct to the extent that we can count on its spontaneous appearance in children. Edward Westermarck in *The History of Human Marriage* (London, 1901) says:

These facts appear to prove that the feeling of shame, far from being the cause of man's covering his body, is, on the contrary, a result of this custom; and that the covering, if not used as a protection from the climate, owes its origin, at least in a great many cases, to the desire of men and women to make themselves mutually attractive.¹

Thomas Athol Joyce, M.A., O.B.E., Department of Ethnography, British Museum, says in *Encyclopedia Britannica*:

There is the evidence of competent observers to show that members of a tribe accustomed to nudity, when made to assume clothing for the first time, exhibit as much confusion as would a European compelled to strip in public. This fact, considered together with what has been said above, compels the conclusion that modesty is a feeling merely of acute self-consciousness due to appearing unusual, and is the result of clothing rather than the cause.

Havelock Ellis, one of the world's most famous specialists in sexual psychology, said, "That modesty—like all the closely allied emotions—is based on fear, one of the most primitive of the emotions, seems to be fairly evident."²

Ellis also said, "Modesty thus comes to have

the force of tradition, a vague but massive force, bearing with special power on those who cannot reason.”³

Professor William James of Harvard said, “Modesty is the application in the second instance to ourselves of judgments primarily passed upon our mates.”⁴

Charles Darwin expressed his opinion that the fundamental element in shyness, modesty, shame and blushing is not moral conduct but self-attention directed to personal appearance in relation to the personal opinion of others.⁵

Theodule Armand Ribot, French psychologist (1839–1916), said:

The condition of its (modesty's) origin is little understood. H. Spencer and, after him, Sergi, maintain that it results from the habit of wearing clothes, which began with man (not with woman) from motives of ostentation and ornament. . . . Besides this special mode of expression (blushing) modesty shows itself by concentric, defensive movements, by a tendency to cover or disguise certain parts of the body. The means employed to this end are of the most various description according to race, country or period: Some hide the whole body, some the sexual parts only, or the face or bosom, some paint the body, or the face, etc.

It is impossible to determine the exact part played in this diversity by circumstances, climatic conditions, and the association of ideas, compulsion, fashion, imitation, and even change.⁶

I look upon it (modesty) as a binary compound capable of being resolved into two primary emotions—self-feeling and fear. The emotional state which lies at the root of modesty, shame and other similar manifestations arises from the application in the second instance to ourselves of a judgment primarily passed upon others. . . . Modesty cannot be considered an instinct in the strict sense of the word, i. e., as an excitomotor phenomenon. Under the influence of custom, public opinion, civilization it passes through its evolution till it reaches the New England pitch of sensitiveness and range, making us say stomach instead of belly, limb instead of leg (even limbs of a piano), retire instead of go to bed, and forbidding us to call a female dog by name.⁷

Dr. William I. Thomas of the University of Chicago said:

The native assumption that men were ashamed because they were naked and clothed themselves to hide their nakedness, is not tenable in the face of the large mass of evidence that many of the natural races are naked and not ashamed of their nakedness; and a much stronger case can be made out for the contrary

view, that clothing was first worn as a mode of attraction and modesty then attached to the act of removing the clothing.

But while we find cases of modesty without clothing and of clothing without modesty, the two are usually found together, because clothing and ornament are the most effective means of drawing the attention to the person. Sometimes by concealing it and sometimes by emphasizing it. . . . We recall the psychological standpoint that the emotions are an organic disturbance of equilibrium occurring when factors difficult of reconciliation are brought to the attention. . . . When the habits are set up and are running smoothly, the attention is withdrawn, and nakedness was a habit in the unclothed societies, just as it may become a habit now in the artist's model. . . . When once a habit is fixed, interference with its smooth running causes an emotion. The nature of the habit broken is of no importance. If it were habitual for grande dames to go barefoot on our boulevards or to wear sleeveless dresses at high noon, the contrary would be embarrassing.⁸

Now, taking them as we find them, we know that such emotions as modesty and shame are associated with actions which injure and shock others and show us off in a bad light. . . . Our understanding of the nature of modesty is here further assisted by the consideration that the same stimulus does not produce the

same reaction under all circumstances, but, on the contrary, may result in totally contrary effects. . . . Similarly, modesty has a two-fold meaning in sexual life. In appearance it is an avoidance of sexual attention, and in many moments it is avoidance in fact. But we have seen in the case of the bird that the avoidance is at the pairing season only a part of the process of working up the organism to the nervous pitch necessary for pairing. (No doubt it is this same thought as applied to man, which, in about 1751, induced Helvetius to say: "Modesty is only the invention of a refined voluptuousness.")

Modesty with reference to personal habits has become so ingrained and habitual, and to do anything freely is so foreign to woman, that even freedom of thought is almost in the nature of immodesty in her.⁹

Professor Ch. Létourneau of Paris said:

Modesty is par excellence a human sentiment, and is totally unknown to the animals, although the procreative need inspires them with desires and passions essentially identical with what in man we call love; it is therefore certainly an artificial sentiment, and comparative ethnology proves that it must have resulted from the enforced chastity imposed on women under the most terrible penalties.¹⁰

Geoffrey Mortimer of England said:

There seems to be no doubt whatever that clothing was adopted for warmth and decoration, and not from motives of decency. Drapery has always served to inflame sexual passion, and some tribes have regarded all garments as indecent. Mr. Wallace found the Brazilian Indian woman who put on a petticoat almost as ashamed of herself as civilized people would be if they took theirs off. Only prostitutes clothe themselves among the Saliras, and they dress to excite through hiding the body. . . . Its (modesty's) origin was not in morality and a native sense of decency, though modesty is now estimated as moral and decent.¹¹

Dr. Paolo Mantegazza of Italy said:

I acknowledge that I myself, as the years went by, changed the idea I first had of modesty, and which I treated in the *Physiology of Pleasure*. At first it seemed to me a sentiment that rises within us in childhood and youth, spontaneous as egotism, self-respect, love; and then, again, I became persuaded that modesty is taught first and learned afterward; for which reason it is one of those sentiments which I term acquired or secondary. . . . The animals demonstrate to us some forms emanating from modesty. Many of them conceal themselves in order to offer sacrifice to voluptuousness; numerous females sought by the male begin by fleeing, resisting, by hiding that which they desire to concede. And this is probably an

irreflective automatic act; it is, perhaps, a form of fear, which rises before the aggressive requirements of the male; these flights, these resistances, these phantoms of modesty have the scope to excite the female as much as the male, and to prepare the soil more suitable for fecundation. . . . Sherihat ordered the Turkish women to cover the back of the hand, but permitted them to expose the palm. The Armenian women of Southern India cover the mouth even at home, and when they go out they wrap themselves in white linen. The married live in great seclusion and for many years they cannot see their male relatives and conceal their faces even from the father-in-law and mother-in-law. These two examples, selected from a thousand that might be cited, suffice to persuade us that accessory and conventional elements are often joined to true modesty which, physiologically considered, do not belong to it. We, ourselves, without leaving Europe, find that the confines of modesty are marked in many countries by the various fashions, not according to morality or the requirements of sex, but according to national mode of dress. He who exchanged these conventional elements for modesty could write the great psychological heresy, that this sentiment had its origin in the custom of covering one's self.

The sentiment of modesty is one of the most changeable in form and degree, and we will write its ethical

history in the volume which we will dedicate to the ethnology of love. Thus without going further than our race and time, we have women who would let themselves die rather than subject themselves to an examination with the speculum, and we have men of great intelligence and lofty passions who confess that they feel scarcely a shadow of modesty. . . .

Modesty is one of the choicest forms of seduction and of the reticence of love; it is an extra current of the great fundamental phenomena of generation; it is a physical respect of one's self; it is one of those psychical phenomena of the highest order. . . . If the sentiment of modesty were not a great virtue, it would be the most faithful companion of voluptuousness, the greatest generator of exquisite joys. An ardent thirst and an inebriating bowl; what joy, but what danger of satiety.¹²

Thus scientists agree that modesty instead of being the cause is an effect, a mere artificial, varying and unstable psychologic consequence, as Theodore Schröder says, produced chiefly by the wearing of clothing. What, then, is modesty? Lexicographers tell us,

To be modest is to be well conducted; orderly; becomingly diffident; unassuming; not bold—Decorous in manner and conduct; nor forward or lewd; chaste in

feeling, language and conduct—The quality or state of being modest; the lowly temper which accompanies a moderate estimate of one's own worth and importance; absence of self-assertion, arrogance, and presumption; humility respecting one's own merit—

Natural delicacy or shame regarding personal charms and the sex relation; purity of thought and manners; due regard for propriety in speech and action.

Not one of the lexicographers makes any reference to the uncovering of any specific portion of the body. Amazing as it seems, however, the courts have held to the belief in an innate sense of the obscene and of the modest though these conclusions are at complete variance with those of the scientist. Judges have repeatedly excluded argument without hearing or considering the scientific aspects of the problem, and have assumed to determine the facts of science by mere dogmatic, judicial dictum. In doing this, they have framed tests of obscenity and modesty such as the lexicographers or any other intelligent people never thought of.

As a matter of fact, the judicial opinions about the innateness of our knowledge of modesty had their origin in the religious sentiments of the time

when the laws were passed and interpreted and upheld by the courts. In 1877 in *Arderly vs. the State*, 56 Ind. 329, the court said:

Immediately after the fall of Adam, there seems to have sprung up in the mind an idea that there was such a thing as decency, and such a thing as indecency, . . . and since that time, the idea of decency and indecency have been instinctive in and, indeed, a part of, humanity. And it historically appears that the first most palpable piece of indecency in the human being was the first public exposure of his or her, as now commonly called, privates; and the first exercise of mechanical ingenuity was the manufacture of fig-leaf aprons by Adam and Eve, in which to conceal from the public gaze of each other their now but not then called privates. This example of covering their privates has been imitated by all mankind since that time, except perhaps by some of the lowest grades of savages. Modesty has ever existed as one of the most estimable and admirable of human virtues.¹³

In *U.S. vs. Harman*, 45 Fed. Rep. 423, 1891 Federal Judge Phillips said:

There is in the popular conception and heart such a thing as modesty. It was born in the Garden of Eden. After Adam and Eve ate from the fruit of the Tree of Knowledge they passed from that condition of per-

fectibility which some people nowadays aspire to, and, their eyes being opened, they discerned that there was both good and evil, "and they knew that they were naked, and they sewed fig-leaves together, and made themselves aprons." From that day to this, civilized man has carried with him a sense of shame—the feeling that there were some things on which the eye—the mind—should not look, and where men and women become so depraved by the use, or so insensate from perverted education, that they will not veil their eyes, nor hold their tongues, the government should perform the office for them in protection of the social compact and the body politic.¹⁴

No Christians of scientific education believe to be historical fact the Genesis story of creation, the fall of man, the fig leaf apron. Everywhere these are taken as legend, myth or allegory. Thus have disappeared the original foundation upon which rested the judicial opinions that humans, in the Garden of Eden, acquired an innate and uniform sense of modesty. Judges continue to quote those decisions of 1877 and 1891 and others based on the outrageously absurd assumption that persons may be denounced as degenerates, profligates, morons and sexualists merely because they can view nude humans without any

sense of shame. Such people are far more clean minded than the judges who have denounced them and some of them have pointed out that when the judges admit in their opinions that some have "blunted sensibilities" and others "acute sensitiveness," it follows that our sense of modesty is not always uniform and that there can be no certainty or uniformity in the enforcement of these laws which are so completely at variance with scientific knowledge.

Social nudism has a real mission to perform in the fundamentals of education. Some words must be redefined in our thinking. We must see the damaging viciousness of some of our accepted "virtues," the superficiality and utter falsity of our ideas of shame and modesty of the human body. We must discover the true basis of genuine shame, the abuse of body functions which are essentially wholesome in their proper functions. Some conventions now accepted must go. Our thinking must be freed of many suppressions and inhibitions which have demoralized childhood and done incalculable harm to people of all races and all ages. The human race must be awakened to the evil caused by the fetish of clothing and

cast off the fetters forged by centuries of ignorant adherence to a blind superstition.

What has superstition been doing to the child? False concepts of shame and modesty have been foisted upon the child's mind. The child is born into a world of innocence and should be born into a world of intelligence. Instead of being taught that clothes are to be worn for protection, —to be worn when a benefit and discarded when not needed, the child is taught very early that clothes are essential to decency. The natural innocence of the child is destroyed little by little. Even before the child is five years old, a damaging mental twist has given to the child's individuality which will persist all through the years. We are all born without clothing. Instead of it being unnatural and immodest to mingle with those of the opposite sex, it is really unnatural and immodest to cover up any part of our anatomy through any feeling of shame. It is only because the damaging superstition of the body's obscenity has been forced upon us by laws and social custom that we have come to look upon a purely artificial custom as commendable and even essential to good morality.

Left alone, little children go about naked and enjoy the freedom of doing so if the air is warm enough for them to be comfortable. This beautiful freedom is destroyed by sincere but ignorant parents and other elders who express such abominable thoughts as "Shame, shame!" "Naughty, naughty!" "Shame on you!" "Aren't you ashamed of yourself?" The organs of reproduction are referred to as "nasty" and "dirty" and the child is repeatedly slapped or switched and told to cover up, until these parts which should be appreciated and respected and regarded as essentially wholesome and essential to health are relegated to the lowest place in the childish mind to be heard of only when the child hears profanity and when the body is made the subject of levity—"dirty" stories. Thus the child, because of the damaging ignorance of the parents and others, gradually acquires the curiosity to see what a person of the opposite sex looks like without clothing. Convention has prevented that perfectly normal desire from being gratified in a normal way in childhood and often the desire is later satisfied in a way which gives pain and suffering to the parents.

Parents who are averse to undressing in the presence of their children are directing the child's curiosity to the very place where it is prohibited from seeing something. This puts undue emphasis on the sexual organs, the very thing which should be avoided. The child should be made un-self-conscious about sex. Every attempt at hiding gives the efforts of the parents a sensational color which makes the problem continually more complex.

It is the false modesty of the parent which leads to lying to the child when it asks where children come from or the difference between boys and girls, or what part the father plays in the birth of children. When children ask questions, they should be told the truth. Nothing save the truth should be told. Parents who suffer from false modesty, who are bound to the superstition of the body's obscenity, are not able to speak the truth. The truth is not in them. If they could know the truth, the truth would make them free.

No subject is more filled with the taboo of silence, of ignorance, of superstition and misinformation than sex. No subject cuts more deeply into human happiness and misery. Destroy the super-

stitution of the body's obscenity. Banish false modesty. Answer the child's questions in the same simple and spontaneous spirit in which they are asked, truthfully, though in harmony with the child's age and his capacity to understand. Bring up the child to appreciate the essential wholesomeness of the human body, and all its functions. Teach the child to resent the body ever being made the subject of levity or erotic exploitation and false modesty and shame will no longer be associated with the human form, so long accepted by the artist as the complete harmony of all that is beautiful.

V

MODERN PSYCHOLOGY STUDIES SOCIAL NUDISM AND THE BODY TABOO

In the summer of 1932, the late Professor Howard Crosby Warren, Editor of the *Psychological Review* and head of the Department of Psychology at Princeton, went to Germany where he entered freely into the nudist life of the German groups. He wrote a most thorough analysis of the psychological aspects of the movement in the form of a twenty-three page article in the *Psychological Review*, March, 1933. The article was in every way favorable to the practice and Doctor Warren became identified with the movement in this country, giving his counsel and cooperation to the official board of the International Nudist Conference up to the time of his death in January, 1934.

The article will convince any intelligent, open-minded person that nudism is a sane, normal and wholesome experience. Professor Warren

said in the summary of his conclusions regarding it:

1. On coming into contact with a nudist group, the subjective experience of shame and the objective experience of shock tend to disappear at once or after a short time, so far as could be observed.

2. Where complete exposure of the body, except for protection from sun, rough soil, etc., is the universal practice in a group, there is no embarrassment or self-consciousness due to one's own nudity. The modesty attitude does not vanish along with the taboo, but its manifestations are almost diametrically reversed. Any gesture of concealment becomes an attribute of immodesty. Such gestures or attitudes were never observed; they would be socially discountenanced.

3. Where the entire group are unclothed, the sight of the naked body ceases to arouse curiosity. Nudity is accepted as a natural condition. Since there is nothing to focus the attention on any specific part, one has merely the impression of the body as a whole, and sex differentiae no longer possess special significance.

4. The writer's observations and the testimony of others indicate that social nudity is not productive of eroticism. There is less sexual excitement, less tendency to flirt, less temptation to ribaldry, in a nudist gathering than in a group or pair of fully clothed young people.

5. The taboo is present so long as any part of the body is covered, not for protection but for concealment. This distinguishes genuine nudism from the near-nudism of athletics and the pseudonudism of the stage.

6. It is not clear from the data at hand whether the practice of nudism could be applied with advantage to the community at large.

His report was a sober, scientific one, intended for intelligent readers and it took courage for Professor Warren to say, "I have tried this new and startling custom and I find it desirable."

Professor Warren left many accomplishments that will make him permanently remembered: his books; his contributions to encyclopedias, his great psychological dictionary; the erection of Eno Hall, the Princeton Psychological Laboratory; the development of the whole Psychological Department at Princeton. All were outstanding but the sober report of his study and practice of nudism will do more to bless mankind and lift people to a new and better way of life than anything else he ever did.

Professor Lewis Madison Terman, Head of the Department of Psychology, Stanford University, says:

Those who are too steeped in the Victorian attitude toward the human body and its functions . . . are right to leave nudity alone. It is my personal belief, however, that the world would be morally cleaner and more sane if all children from the earliest years up were made accustomed to the practice of nudity by the sexes in common.¹

Of course those who are steeped in the Victorian attitude would not do anything else but stay away. They would need to be somewhat open minded to consider visiting a club or camp to study and observe. Once such people go to see for themselves, they see the fallacy of their Victorian attitude. No honest, open minded investigator has gone out to denounce the movement. Surely that is significant. Investigate for yourself and learn the reasons.

Professor Christian Alban Ruckmick, Psychology Department, University of Iowa, says:

The practice of nudism has to my mind certain mental as well as physical advantages. First of all, it removes idle and suggestive curiosity. . . . Only the partly clothed figure of the opposite sex is sexually attractive. . . . One of the greatest achievements will be on the moral plane. Our greatest incentive to crime and malpractices of all sorts is the urge to do the for-

bidden thing. Wrongly motivated curiosity has been an enormous factor in the process of sexual wrong-doing. If we can cultivate both a reverence for the marvel of the human body and an increasing understanding of its place and function, education will do much to minimize sinful acts.²

Professor Max Friedrich Meyer, Psychology Department, University of Missouri, says:

I believe in everybody's right to dress and make himself (herself) thereby more presentable. I believe that society ought to be educated to the point of tolerating those who for the sake of health desire to take sunbaths on the beach unclothed and swim unclothed, and that—to bring about this education—certain bathing places at certain times ought to be opened to the public with this toleration, very gradually extending the practice as opposition from objectors diminishes. Nudity no more than stylishness of dress should be forced on unwilling victims. I am neither a “nudist” nor a “dressist.” I believe in tolerance. I believe in educating the public, very gradually since it is not possible in a hurry, to look with “moral indifference” to styles of dressing and of nudity, *provided* the individual otherwise behaves chastely.³

(No nudist asks more than that the general public and those in authority should take the position expressed by Prof. Meyer.)

Dr. Pierre Vachet, internationally known psychologist, says in *Nudity and Sexual Physiology*:

We were created to live naked, just as we came into the world and as certain primitive races still live. The sensation of shame at the sight of nakedness is but an artificial impression acquired by a long atavism and strengthened during the course of the centuries. Lately, however, a certain evolution in morals and customs seems to be in operation; in many countries, adepts of free life in the open air and in the sunlight grow more and more numerous.

In Germany, for instance, statistics prove that several thousand individuals of either sex follow the laws and precepts of nudism; the latter thus assumes the aspect of a new gospel for modern times.

Certainly nakedness, far from exercising upon the individual a carnal attraction made of lubricious desires and of bestial sensuality, rather inspires the mind with esthetic thoughts and develops in every human being a taste for the beautiful. Sexual education, which everybody, parents, tutors and the rest find so difficult to impart, can be accomplished quite naturally by the spectacle of nakedness—a spectacle that purifies the imagination and appeases the sexual impulses.

The practise of nakedness, once freely spread, would prevent unhealthy excitement; it would soothe the sexual obsessions and pornographic visions which the baser man in us feeds on.

Nakedness would make sexual education a perfectly natural thing; human beings would be soon rid of the sense of shame, modesty and sometimes even sin that people attach to the genital organs.

The custom of living naked on the beaches in the summer would, I am positive, provide the best possible means of teaching human beings, especially young people, to know one another better, both physically and morally; it would make short shrift of hypocrisy, which is the poison of the heart. Thus adolescents would lose much of their absurd false shame and stupid timidity; boys would get used to appreciating in their girl companions the sane qualities of the heart, the subtleties of the mind. They would, too, consider young girls with a nobler, heartier respect; having less occasion to prove themselves crude and obscene, they would more easily avoid the vices of boys' boarding schools; and, being honor-bound to find favor by courtesy of thought and act, they would quite naturally become the better for it.

Young girls, for their part, would lose a good deal of their insipid coquetry, of their childish girl-for-girl passions; they would acquire a greater simplicity, a greater frankness; they would undergo the happy influence of emulation which, moving them to neglect the arts of adornment and cosmetics, would bring them to cultivate beauty of body and harmonious forms.

People should be made to realize that gymnastics, sports and physical labor of all sorts, especially when

performed naked and in the open, are capital factors in regulating sexual impulses; the very discipline they exert upon physical motions prevents the development of vivid emotions.

It is during hours of idleness or in the course of intellectual work or in such contacts as dancing offers, when the human form, divined under soft fabrics, sets the imagination rioting, that the body catches fire and is lost.

At a period when the laws of morality grow lax, one of the most telling instruments at the service of modern morals lies in sports and gymnastics carried on in the open air, for these pursuits not only discipline the needs of the body but also develop an admirable sentiment of solidarity.

Several hundred thousand of the finest people in this country, people who are interested in healthy minds and healthy bodies, agree with these conclusions of psychologists. From their own experiences, they testify to the accuracy of the observations. They will not be silenced by people whose attitude is based solely on prejudice or theoretic grounds and not on personal experience. These people firmly believe that social nudism is a great movement for social progress and calling them morons, degenerates, sexualists,

criminals will only spur them on to greater activity and lift the intersex taboo more quickly. They protest against repressive conventions for they see nothing in the human body of which to be ashamed. They insist that the body is essentially wholesome in all its functions. They object vigorously to the idea that the body is an object of shame or a subject of levity. They do not claim that indecency and obscenity are a superstition. They insist that these evils are in the mind. The damaging myth, the superstition, is the idea that the human body itself is indecent and obscene. They would clean up the minds of people by creating the right mental attitude toward the human body. They would take smut out of the books and magazines and off the stage by destroying the thing which puts it there, the superstition of the human body's obscenity.

Instead of sexual emotions becoming aroused by social nudism, they become soothed and quieted. People who have never had any experience in social nudism ridicule this statement but it is true nevertheless, that millions of people have learned that, instead of inflaming the passions, social nudism has just the opposite effect.

In more than four decades of growth of social nudism, there is no record of a woman being raped in a nudist camp. Such a thing is frequent in clothed society among conventional folks. Sex curiosity exists and must continue to exist. It must be normally and harmlessly satisfied. Without sex interest we would have no sex life. Many crimes and sex excesses and perversions will disappear with the lifting of the intersex taboo. The sex interest is satisfied in the process of sublimation. It could hardly be said that there is no sex consciousness in a group of social nudists. Perhaps people are never entirely free from sex consciousness, but it becomes more diffused, intangible, spiritualized by the surroundings and the entire atmosphere of non-sexual thoughts and activity. Such activity makes sex a normal fact and people turn their attention to other things. The normal and sane desire to see the opposite sex as it really is, is gratified and the most natural form of human association is furnished.

These conclusions are based not only on the writer's observation and experience in seven of the leading camps in this country, but the experience and observation of many others who have

studied the psychological effects of social nudism. It is significant that no person of character has made a study of social nudism by actual observation and experience and gone out to denounce it as harmful and dangerous. Every psychologist, every psychiatrist, every sociologist, every minister who has studied the movement first hand has taken the same position which Professor Warren took. Only those who have expressed opinions without observation or experience have been critical. No honest investigator has gone out from a group to denounce social nudists as morons, sexualists, profligates or degenerates.

Social nudism is one subject on which no person can speak intelligently without actual observation and experience. The unfortunate thing is that most people do not hesitate to speak as with authority through the mere use of their imaginations. As Carl Easton Williams has said, the very essence of social nudism is the matter of putting the imagination out of commission. Every person who has had actual experience and observation knows, as Doctor Warren learned, that social nudism is natural and free from the shock or

sensations which his education led him to expect. Because of the traditions of shame, acquired and not inherited, people think they are going to react to social nudism in a certain way, with shock, embarrassment, or, in the case of men, actual virile reflex at sight of nude women. The experienced nudist knows that nakedness and sex are not related. The virile reflex has never been observed in a nudist camp but the man who has not had observation or experience and who is bound by his prejudices will not believe that his idea is wholly without justification.

What is the real psychology of social nudism? No idea is more fallacious than that the leaders are neurotics who have discovered a new thrill and have gathered together groups of morons, sexualists, erotic exhibitionists, profligates, and degenerates who are looking for or finding a new thrill sensation. Neurotics find it very difficult to face the actualities of life. They do their utmost to escape reality. They are dominated by their fears, their emotions which have grown from their childhood training. They have been taught to relate nakedness with sex and so they shrink from both. Their false sense of shame and guilt

prevents them from facing reality so, instead of investigating social nudism to get the truth, they oppose it by simply using their imaginations.

The actual truth is that the common idea that social nudism is identified with neuroticism is entirely erroneous. A social nudist group is free from neuroticism. All psychologists agree that facing reality is absolutely essential to mental health. Those interested and active in the social nudist movement do, above all others, face reality. Social nudism is just that. It destroys tendencies to neuroticism. Sex becomes objective instead of subjective. When clothing is worn only for protection and not for concealment one comes to see sex impersonally and unemotionally. Imagination in the sex field no longer functions.

Indecency and obscenity are a reality but they are in the mental attitude. There is nothing unclean in the body or in the function of reproduction. The body is wholesome in all its functions. Purity does not come from concealment or secrecy or mystery. Due to false teaching, most people are neurotic on sex. Concealment and mystery breed curiosity and curiosity has made possible and profitable the commercializing and

exploiting of sex curiosity and made the body, especially the sex impulse, the subject of lewd levity.

Social nudism is a positive curative agency. Leaving out of consideration actual psychopathic cases, social nudism will cure the large majority of neurotics and erotic exhibitionists. It destroys sex fears, and harmful inhibitions and other sex complexes. Stuart Chase says, "Unsegregated nakedness in large doses is undoubtedly the best medicine conceivable for persons suffering from dirty minds, perverse desires, and snooping complexes." ⁴ Millions of social nudists know this. Other millions must learn it through education in social nudism, the greatest educational and social force at work in the world today.

Social nudists face reality in another way. They are themselves. Their defects are revealed as well as their attractive features. Affectation, ornamentation, misrepresentation are all gone. People know what one really is where social nudism prevails. One resolves to improve his figure for the tailor cannot cover it up and make him more attractive than he really is. One sees the reward of dieting and exercise and right living. If

one has been slack, he resolves now to put health first.

Loose thinking is always harmful. Most harmful is the idea that social nudism is mixed up with immorality or free love. There is no connection at all. Nudism is merely a matter of dress. Promiscuity, illicit relations and free love are matters of conduct or human behavior. They are often found in a clothed society and seldom found in a nudist group where there is no mystery or secrecy to arouse curiosity and sexual desire.

Concealment comes from the ascetic notion that sex is nasty and the body obscene. Children are taught that sex is dirty and they still think so after they reach maturity and suffer thereby many sex complexes and unnatural inhibitions. A silly and illogical and unphilosophical taboo holds them enslaved. Psychologically, social nudism offers a curative agency. People who ask why nudists do not wear bathing suits while swimming or shorts in sun bathing miss the whole point. The traditions of false modesty have so warped our understanding that to wear clothes when they are not needed or when they are a positive

handicap is a concession to the damaging and damnable sense of shame which the nudist does not care to make.

Carl Easton Williams in "The Psychology of Nudism" in *Physical Culture*, July, 1934, said:

People know so little about their own minds and the reasons why they hold their opinions that even the most clever and best educated people easily go wrong when facing a subject such as this. They only know that they have a mental association of nakedness with sex, but they do not realize that their minds have been "conditioned" in that association. For the occasional reader not familiar with the psychologist's use of the term "conditioned," I might very well explain its meaning by reminding him of the way a bear is taught to dance. The bear is expected to give you the impression that he is very smart because he dances—but wait a moment. To teach him dancing he is placed upon a fairly hot platform while the organ-grinder plays the tune. What would you do, barefooted, on a hot platform? Well, that's what the bear does, too. He lifts one foot, then the other, and keeps on picking them up, the organ playing all the time. With enough of that the association is well rooted, and after that you can take the bear out on the cool road, play the hand-organ and the bear will start lifting his feet. The children on the street with their pennies for the little show think that

the bear's dancing proves how intelligent he is. Actually, it only shows how dumb he is. He cannot dissociate.

Now, that is somewhat the position of the average human being in this puritanical civilization. Having nakedness and sex tied up together in his mind, he no more realizes that this is a "conditioned" association than the bear knows that his dancing to the music is a conditioned reaction.

One other psychological aspect should be discussed here. If social nudism minimizes sex interest, would not such a tendency be harmful? Would not abnormal blunting of the sex instinct result? Doctors certainly enjoy an objective attitude professionally yet they have normal sex reactions in their personal home life. The sex urge is still present. They are normal, happy husbands and fathers.

In 1934 I had a conference with Judge Fred Miles who presided in October, 1933 when Fred Ring was tried in the Circuit Court of Allegan County, Michigan and found guilty of indecent exposure. I had told him of the character of Mr. and Mrs. Ring and others of the Sunshine Sports League which operated the camp. He said, "If these people are the fine people you say they

are, why are they always so interested in the indecent parts of the body and so determined to expose them?" I saw that Judge Miles, who admitted he had given no study to social nudism, had missed the point I had been trying to make. His use of the word "expose" expressed his own mental attitude. He was the one, not Ring, who was putting the emphasis on the sexual organs and the breasts and the alleged need of hiding them. The Sun Sports League members had not been concerned at all about exposure. They had not been interested enough to feel any need of hiding the breasts or genitals. To them the entire body is clean and wholesome and no part needs to be hidden.

Judge Miles then said, "Why are those folks always trying to prove how good they are?" I saw that the Judge was hopeless. He was utterly unable to see that the nudists were not trying to prove themselves pure-minded in their claimed forgetfulness of sex. He had failed to see that Mr. Ring had come to have a perfectly natural attitude toward the body which has destroyed the overemphasis of sex. Judge Miles was still connecting nakedness with sex. Ring had learned

there is no connection between the two things. The Judge said he could not believe that a normal man can forget sex. I agreed. Ring has not forgotten sex. He sees nothing obscene in it save where it is used improperly.

Judge Miles then called Ring an exhibitionist and said all the members were erotic exhibitionists. How long would an exhibitionist continue to have a thrill? Such an impulse would soon be dissipated. If Judge Miles would be thrown into the camp and disrobe, that would be exhibitionism. Nudity thrust on any group of clothed people who are conventional would be what the Judge had in mind. What is exhibitionism? It is a manifestation of harmful prudery. An exhibitionist gets a thrill out of exposing what he thinks is obscene. A nudist does not believe any part of the body is obscene so he cannot be an exhibitionist. Social Nudism would destroy exhibitionism.

The old ascetic ideas form now the basis of the bitter, bigoted, intolerant attitude of those who insist that the present movement of psychologic science to observe the movement by those who want to break away from that old superstition of the body's obscenity with the calm dispassion of

the true scientist, must be stopped. They insist that the attempt to lift the intersex taboo is immoral, indecent, obscene, a threat to our moral standards and most cherished institutions, but they submit no evidence to substantiate their charges. Eight seasons have given, in this country, a sufficient opportunity to know if social nudism arouses the sex emotions, if it leads to illicit relations, if it opens the doors to promiscuity and licentiousness, if it has been disruptive to happy home life. The evidence has all been to the contrary. Surely the critics could point out evidences if our moral standards and most cherished institutions are threatened, but no such evidence has been forthcoming. But lack of evidence does not lessen the vigor of the attack. Religion and morals are still filled with prejudice and intolerance just as they have been for centuries past. Minds are still closed. Once an idea gets established, no matter how fallacious or how demoralizing, it is well nigh impossible to break the bonds of superstition.

Unfortunately the superstition has done far more harm than merely making miserable its propagators such as Tertullian, Clement of Alex-

andria, St. Jerome, St. Anthony, St. Theresa of Jesus, St. Catherine, Veronica Juliani, St. Armelle, St. Elizabeth, Maria Magdalena and thousands of others who held like views in the early centuries. It has been the greatest curse of mankind in all the centuries. It has cursed the world with damaging taboos and inhibitions which have from birth kept men and women bound in heavy chains of blind bondage. It has created abnormal relations between the sexes and created unhealthy mental complexes. It has prevented people from looking on the opposite sex with sane and natural feelings. It has filled the world with venereal disease. It has enabled unscrupulous racketeers to exploit and commercialize sex curiosity. It has placed sex in a most degraded state. It has filled the world with pretense and sham and hypocrisy. It has pretended that concealment promotes morality while every sincere person knows that covering the body at all times, stimulates erotic curiosity. Every honest person knows that an artfully dressed woman is far more alluring and provocative than she is entirely nude. Among nude people clothing is assumed at certain dances which have as their

confessed object the excitation of the passions of the opposite sex. Among nude races immorality is far less common than among races more clothed. It has prompted the hypocrisy of clothing deliberately designed suggestively to reveal or call attention to the very parts of the body which, under our standards inherited from asceticism, the clothing is supposed to conceal, and thus played on the imagination. It has made the body a subject of levity and erotic exploitation. It has filled our theatres with smut. In light opera, drama, movie and burlesque, the risqué lines are there to remind us of the consequences of the superstition of the body's obscenity inherited from the Christian fathers. It has filled our news stands and our homes with pornographic magazines. It has given us pornographic books and songs. It has filled the imagination and conversation of millions of people with lewd and lascivious humor. It has twisted a clean and noble creation into a hideous thing, obscene and indecent.

This myth has degraded the human body instead of having exalted it. It has always driven people to look upon their bodies as indecent,

obscene, filthy, nasty old carcasses to be treated as garbage cans, sewers and cesspools. Wherever and whenever people have been obsessed by this superstition venereal diseases have flourished to a greater degree. It has destroyed the interest in health which people should have, until millions of people today are more interested in the condition of their automobiles than they are in the condition of their own bodies.

If our bodies are wicked, indecent, obscene, filthy, why not pour in the booze and shoot in the opium, morphine, cocaine and all the other kinds of dope? Why not use our bodies to have a high old time, indulge in sex orgies and all kinds of vice and dissipation? And millions are doing it. Health of mind and body does not interest them. The world is paying a terrible price for this damnable superstition of the obscenity and indecency of the human body. The human body, the temple of God, the crowning achievement of the evolutionary process, is everywhere the subject of lewd levity and erotic exploitation.

What is the sex psychology of the average man or woman in our clothed society? Among groups of both men and women lewd talking and

jesting are common. As a boy I knew, of course, that this was common among boys and men, but my mother had brought me up to idealize women and I was greatly shocked in later years to learn from my sisters and wife that bawdy jokes are just as common in groups of high school and college girls.

The theatrical stage, as well as variety shows and light opera and burlesque, is permeated with lewd and lascivious humor. People do not resent it. They like it. The women laugh and applaud as heartily as do the men. This can be observed any day at the theatre. Those who write the jokes, the humor and the extremely risqué lines know that very few protests come to the management. The box office receipts show large returns. Nudism would change the attitude so that one would not find in the body and its functions anything to laugh and joke about obscenely. There are still some men and women who keep aloof from such an attitude of sex and many such are interested in the nudist movement's attempt to change entirely the mental attitude toward sex.

Are we to condemn the people who laugh and enjoy the risqué lines? They are not primarily to

blame. Society is responsible. We have surrounded people with walls of hypocrisy and completely twisted sex into a hideous thing, obscene and indecent. A clean and wholesome creation of God which brings to life the most beautiful and inspiring things has been warped into something smutty. Instead of sex being a normal and happy interest, it has become an erotic one.

Not only has the old attitude toward sex inspired risque conversation but sex thinking has become erotic. This mental sex complex comes from the false attitude of society which has perverted a perfectly normal and wholesome impulse. A misguided society is to blame; for society has built up the taboo which forbids the frank disclosure of the shape of a woman's body, the grace and beauty of form, the rotundity of breast, but permits partial, suggestive and alluring disclosures by styles of clothing largely designed for no other purpose.

I fully appreciate the danger of using the word "erotic" in this connection. Most of us are more or less erotic in the ordinary meaning of the term. Most people seek and find opportunities for mild sensuous gratifications that are perfectly

normal, natural and without any implications of immorality. To speak of one as erotic should not be taken to mean that he or she is abnormally erotic. We should distinguish between normal and abnormal eroticism. Many of our nationally advertised products use expressions designed to appeal to normal eroticism. "The skin you love to touch," "that school girl complexion," "the girl you stop to look at" and scores of other expressions appeal to a very mild form of eroticism. A firm manufacturing a foundation garment has built its entire sales psychology on a mildly erotic appeal. It does not stop with the expressions, "twenty years old and forty years young," "made for young figures and to make figures young," but appeals to normal eroticism with the words, "Whether your *curves* are merely a *subtle suggestion* or a *solid fact*, you'll like yourself much better in a ———, free but firm—*gentle* but *very persuasive*." And the pictures are very alluring, also designed to make a mildly erotic appeal. It is not bad, just normal eroticism. And remember also the tea that is advertised to *quicken the emotions*! One has only to sit down and look at the pages of a current magazine to see that there are

numerous erotica, natural and perfectly understandable without which we would be subnormal. To say that nudists find in social nudism a number of erotic gratifications is not to say that nudists are abnormally erotic. Abnormal eroticism is found among anti-nudists. Social nudism would cure ninety per cent of such cases.

VI

COMBATING THE SUPERSTITION OF THE OBSCENITY OF THE HUMAN BODY

For several years we have had a great deal of talk and many published letters and some editorials and articles written by people who have given no study to the nudist movement, people who have made no observation or investigation either in this country or abroad. They are in the same mental attitude as was the magistrate in the Kentucky highlands. "You don't need to bring in any witnesses," he declared, " 'cause my mind's already made up." Such people have been saying that nudism is a reversion to the animal state, a retreat from modern civilization, that it is a dangerous fad, that it is exploitation of sex. They charge that it threatens the morale of every community, that nudists are sexualists, profligates, degenerates, and criminals.

Let us put aside our prejudices and look at this question with open minds. A few minutes of

serious thinking will not endanger our health. The trouble is that real thinking is not popular. Many people who think they are thinking are just trying to find more material to bolster up their own prejudices. We have been too busy amassing wealth and power in this country. We have not had time to do much thinking.

A few years ago Doctors Francis G. & Cornelia Golay Benedict of the nutrition laboratory of the Carnegie Institute of Washington conducted some very interesting experiments. They measured the changes in the heart-beat and respiration, the character of the respiration, the carbonic acid exhalation, especially the consumption of oxygen on five men and one woman under three different conditions,—during mental and physical repose, during response to an electric signal, during four consecutive fifteen-minute periods during which the subject worked out complex problems in mental arithmetic.

The tests showed that the extra demand for calories was only four per cent, surprisingly low. They also showed that the effects of mental effort are immediate and not cumulative. In the periods of repose following mental effort, all factors re-

sumed their former level and nature. The extra calories needed for one hour of mental effort would be completely met by the eating of one oyster cracker or half of a salted peanut or one and a half grams of bread or four grams of banana.

One thing is sure. These people who are so alarmed at the spread of social nudism may be eating enough peanuts or oyster crackers or bread and bananas to do some real open-minded thinking, but the energy is not going to the use of mental effort in the right direction.

The greatest need of today is for people to read and think with a scientific attitude toward knowledge. Many read merely to find more material to bolster up their prejudices. They merely seek to find more reasons for believing what they already believe. First we need the facts. Lord Bacon said: "The man who writes, speaks or meditates without being well stocked with facts is like a mariner who sails along a treacherous coast without a pilot or who ventures out into mid-ocean without a rudder or compass."

Two men were chased by a bull. One climbed a tree and the other ran into a cave. The cave

refugee made several tentative excursions away from the entrance to the cave. The bull was alert and immediately chased him back. The fellow in the tree yelled, "Go back in the cave, you darn fool, and wait until he goes away, then we can both get out of here." The chap peeping from the cave shouted, "That is all right for you to talk that way, but you don't have all the facts. There's a big bear in this cave!"

But we need more than facts. The first law of inquiry is that we must be *obedient* to the facts. The man who has the scientific attitude toward knowledge must surrender to the facts. And even the scientific approach is not all that is needed. Man cannot live in a world of uninterpreted facts. Harry Emerson Fosdick has expressed this thought in a very striking way: "Facts alone are like pieces of irritating grit that get into the oyster shell; the pearl of life is created by the interpretations which the facts educe."

We must study this great social development, social nudism, to find and interpret the facts and then be obedient to the facts. We must do this with the calm dispassion of the true scientist in his search for truth and not in the heated atmos-

phere of religion or morals. What was the effect of the distorted conception of sex and obscenity on those who propagated the superstition? What has been the effect on civilization? What beneficial or detrimental results have been realized in countries where the intersex taboo has not prevailed as in this country? What have been the results of social nudism in the many camps of Europe and the United States? What type of people are interesting themselves in the movement? What has been the effect on the family life of those who have followed this new way of life? These and other questions must be answered satisfactorily from careful study if we are to be in a position properly to evaluate this rapidly growing movement.

What is the truth? Is nudism a constructive social force or disruptive? Does it offer something new and of value? Does it lead to illicit relations? Does it open the door to promiscuity and licentiousness or does it offer promise of help in breaking away from these things and to a clean, happy and wholesome understanding of the right relation of men and women and children? What is the relation of nakedness and a

sense of shame? Are there hygienic and therapeutic benefits of sun, air and water bathing in the nude? Is segregated nudism all right and unsegregated nudism all wrong? Are there sociological and psychological benefits to men, women and children enjoying the nude life together? Are clothes natural or unnatural? Are there esthetic and ethical and moral and spiritual benefits to be derived? Why are there thousands of doctors, lawyers, ministers, teachers, social workers, many of them total abstainers from alcoholic drink, tobacco and even tea, coffee, and meat, ardent supporters of this movement? Why is the attitude of the press becoming more favorable? Is the *Encyclopaedia Britannica* correct in saying that modesty is custom—a feeling of acute self-consciousness due to appearing unusual—and is a result of clothing rather than the cause?

What was the effect of nudism in classical Greece? How were the early Christians who baptized in the nude affected by it? How have audiences been affected by the Passion Play in which the person taking the part of Christ appear entirely naked on the stage? How has nudism affected the people in New Britain, Samoa,

in the South Seas, the Caribs, the people in Norway, Sweden, Denmark, Japan and Russia?

What are the facts? Put aside our prejudices. Let us get the real facts. Let us judge this movement by the results where it has been the custom and where it is now being practiced. Many investigators have visited the camps in Europe. Organized nudism was established in this country in 1929. For a number of consecutive years camps in the United States have been visited and observations made and generalizations reached. Have the charges of the enemies of the nudist movement been sustained? Has there been evidence that our moral standards and most cherished institutions are threatened? Has nudism been proven to be a disruptive social force? Have the nudists indulged in illicit relations? Has nudism had a bad effect upon family life? Has nudism actually opened the door to promiscuous sex relations? Has it caused dissension or jealousies? Has it caused separations or divorces? Has it demoralized children? Has it broken up homes? Has it resulted in wild orgies of dissipation? Have the charges that nudists are morons, sexualists, libertines been sustained?

One has only to ask such questions to show that the charges are based on ignorance and prejudice. We have only wild, unwarranted charges. No proof has been submitted. As a matter of fact, the authorities would have been able to close the camps long ago had sexual irregularities been general. Newspapers would have raised a cry of protest had evidence been discovered to sustain the wild and ridiculous charges. I do not mean by this statement that the social nudist movement in this country has had a perfect record. There have been a few instances where unworthy people were admitted and where vulgarity and sex indulgence were known. But even where these have occurred, the general spirit has been cleaner than it would have been in that same group if it had been clothed. Social nudism did not cause the irregularities. It greatly reduces the number of such cases. Social nudism automatically eliminates its undesirables.

We challenge people to tell us why the body is wicked and sinful, why it is regarded as indecent and obscene, why we should split up family groups and social groups for segregated sun bathing, why exposure of the middle of the

body, for a man, and the middle of the body and the breasts, for a woman, should be regarded by the public as such a frightful iniquity! The real "iniquity" is the improper status given to sex. The "iniquity" is the old idea that all sex discussion is taboo. The "iniquity" is ignorance of sex. Only during recent years have people begun to see the virtue of knowledge of sex and the right attitude toward sex.

It is gradually coming to be understood that all men and women have and should have a perfectly normal interest in sex science. And this normal interest is desirable, wholesome and beneficial. We know today that real happiness exists and abides only where mutuality prevails. Perhaps some men still have enough of the cave man in them to find satisfaction in sexual struggle, but certainly that is not the case with cultured and refined men and such men, men of high ideals, are not satisfied with conditions as they are today.

Sex curiosity is to every young man and young woman a normal, sane and wholesome thing. It is entirely natural for a man to want to know what a woman looks like and for a woman to

want to know what a man looks like. We have made it impossible for this normal desire to be gratified in a wholesome way. We have treated this normal desire as obscene, shameful and erotic. We have driven thousands of young people to bawdy houses and illicit relations. Why should not every young man and woman know what he or she has a perfect right to know? Nudity in the home, in camps and on bathing beaches is coming more rapidly than many realize and the benefits will be far beyond what most of us can now comprehend.

Watch the dancing at variety shows. Observe the bunny hug at social dances. Why such movements? Why such cavorting and high kicking? Why the embracing and fondling, the whirling of a woman off her feet, the whirling of the woman until her skirts stand out straight? The motion is beautiful sometimes but usually "sex appeal" prompts the action. What if the body were a common ordinary everyday thing? What if fathers and sons and mothers and daughters practiced nudism in the home? The "kick" would be gone. Stage shows and movies and burlesque would be hard hit. Nudists see no attraction in

such displays. Bare legs have no attraction. The body is an ordinary thing. Such shows seem pointless. Why such a performance? It actually becomes distasteful. The body is accepted as one of life's everyday elements. A young man who has been accustomed to seeing his mother and sister at home and women in a social nudist group has no curiosity to see a prostitute. A woman's body is no more notable to him than is a man's. They have pubic hair as do the men. What of it?

Nudists hold that the freeing of the mind from the erotic attitude toward sex will do more than anything else can do to clean up our modern books and magazines, our movies, our light opera, vaudeville, drama, do away with much of our divorce and conditions which have caused divorce and leave our minds free from unwholesome thinking for deeper study of our social and economic problems. One who has listened to the conversations in a nudist camp can appreciate the wonderful possibilities of this breaking away from morbid and erotic sex concepts to constructive thinking, elevated, refined, widened into a

finer, greater, more noble and inspiring mental activity.

In these groups one becomes more considerate of others. Life becomes more moral and ethical. Sex life with both single and married people comes under more perfect self-control and guided direction. Men all testify that their attitude toward women becomes more chivalrous. Such a thought as taking advantage of freedom from clothes for promiscuous relations becomes absolutely intolerable. Sex thinking is purified. One finds new outlets to legitimate and normal and happy human relationships. The old outworn myths regarding the shame of the body and the obscenity of the body vanish. The nudist seems to lose the sense of morbid and excessive sexuality.

Of course the novice attending a nudist camp may at first be sex conscious. His or her eyes may naturally wander to those parts of the body not generally disclosed in public but after an hour or two this inspectionist complex vanishes and the bodies of all are taken as a matter of course. Men and women associate together, play their

games together, hardly conscious of the anatomical difference of the sexes. As a matter of fact, no harm comes from a conscious feeling of difference, for sex differences no longer have special significance.

Almost from the start one feels no embarrassment at all. One's first reaction is invariably, "How normal and natural. Why have I been a victim of superstition all these years?" If one doubts that this is the reaction, let him experience it for himself. This feeling of naturalness is due to the fact that clothes are an unnatural and artificial development which nature never contemplated. The utility of clothing in certain regions and under certain conditions surely does not mean that clothing is necessary, useful or desirable at all times or at all places. Nudism is a return to the natural state and, being a return to nature, after the first few minutes of strangeness, the entire procedure seems so normal, proper and natural that few feel any embarrassment.

Progress in combating the superstition of the body's obscenity has moved very slowly but progress is being made. The movement to break the bonds of superstition is both physical and

spiritual. If sex is unclean, if the human body is indecent and obscene, clothed or unclothed, then there is nothing clean. The human body is obscene only in the twisted and tortured mind of the observer. As Bruce Calvert said so strikingly a few months ago, in speaking of the lifting of the intersex taboo: "You will be amazed to find your fears and preconceived notions about nudity floating away like unhappy vapors of the night before fires of the morning sun."

Those who have lifted the intersex taboo have lost the sense of morbid and excessive sexuality. They feel a marvelous sense of freedom, a release from the unhealthy inhibitions of their childhood which crushed out most of the spontaneity of life. The sense of shame is lost in a glorious feeling of emancipation. They become conscious of a spiritual exaltation. This can, perhaps, be understood only by those who have experienced the thorough-going change in the outlook upon life and the mode of life which social nudism gives. Man becomes a part of nature; getting closer to nature calms and soothes the nerves and stimulates meditation. Every benefit of nature is utilized. Men begin to realize what life spiritually

means. They begin to interpret the facts of experience. It was this more abundant life of love and joy and hope and faith and spiritual insight which Harry Emerson Fosdick had in mind when he said:

In this difference between the facts of experience and their interpretations lies the secret of the contrast between our words *existence* and *life*. Even before we define the difference, we feel it. To exist is one thing; to live is another. Existence is comprised of the bare facts of life alone—the universe in which we live, our heritage and birth, our desires and their satisfactions, growth, age and death. All the facts that science can display before us comprise existence. But life is something more. Life is existence clothed in spiritual meanings; existence seen with a worthy purpose at the heart of it and hope ahead, existence informed by the spirit's insights and understandings, transfigured and glorified by the spirits, faiths and hopes. It follows, therefore, that while existence is given us to start with, life is a spiritual achievement. A man must take the facts of his existence whether he wants to or not, but he makes his life by the activity of his soul. The facts of existence are like so much loose type, which can be set up to many meanings. One man leaves those facts in chaotic disarrangement or sets them up into cynical affirmations, and he exists. But another man takes the same

facts and by spiritual insight makes them mean gloriously, and he lives indeed. To suppose that mankind ever can be satisfied with existence only and can be called off from the endeavour to achieve this more abundant life, is utterly to misconceive the basic facts of human nature.¹

VII

THE WITCHCRAFT PERSECUTIONS OF 1692 REENACTED IN OUR TIME

Before discussing some modern persecutions which have been compared many times to the witchcraft persecutions of 1692, the reader is referred to the credimus and principles and standards of several hundred thousand of the people in the United States, people who are working to destroy what they believe to be a damaging and damnable superstition. Then read Section 335, Act 328, Michigan Public Acts of 1931, under which one of the leaders was convicted and sent to prison. See how a law written to cover indecency and immorality, lewd and lascivious cohabitation, gross lewdness and indecent exposure was used to persecute a social reformer.

CREDIMUS

We believe in the essential wholesomeness of the human body and all its functions.

We believe in inculcating in all persons a desire to

improve and perfect the body by natural living in the out-of-doors.

We believe that sunshine and fresh air in immediate contact with the entire body are basic factors in maintaining radiant health and happiness.

We believe in creating beauty in all things and therefore encourage men and women by daily care and culture to create for themselves the body beautiful.

We believe that the health of the nation will be immeasurably advanced through the wide acceptance of the principles and standards advocated by the American nudist movement.

We believe that presentation of the male and female figures in their entirety and completeness needs no apology or defense and that only in such an attitude of mind can we find true modesty.

PRINCIPLES AND STANDARDS OF THE INTERNATIONAL NUDIST CONFERENCE

Our goal is the healthy mind in the healthy body. This is not only a creed but a way of life. Sun, light and air are vital conditions of human well-being. We believe these elements are insufficiently used in present-day life, to the detriment of physical and moral health. For the purpose of health and recreation and for the conditioning of man to his world we offer a new social practice, based on the known wholesome

value of exposure to these elements and in the spirit of naturalness, cheerfulness, and cleanness of body and mind that they symbolize. We aim to make the fullest possible use of sun, light and air by a program of exercise and life in the open in such a way as will result in the maximum physical and mental benefit.

We believe in the essential wholesomeness of the human body, and all its functions. We therefore regard the body neither as an object of shame nor as a subject for levity or erotic exploitation. Any attitude or behavior inconsistent with this view is contrary to the whole spirit of the society and has no place among us.

The practice of our physical culture tends toward simplicity and integrity in all ways. We counsel for our members the sane and hygienic life. We reserve the right to impose abstinence from stimulants and intoxicants at our meetings and on our grounds.

We invite to our membership persons of character of all ages and both sexes. Our purposes are not exclusively physical or cultural or aesthetic but rather a normal union of all these. We make no tests of politics, religion, or opinion, provided that these are so held as not to obscure the purposes of the League. It is intended that the League shall be thoroughly representative of the whole social order.

Section 335, Act 328 Michigan Public Acts of 1931, page 691, chapter 47 Penal Code *Indecency and Im-*

morality Section 335.—Lewd and lascivious cohabitation, gross lewdness and indecent exposure.

Any man or woman, not being married to each other, who shall lewdly and lasciviously associate and cohabit together and any man or woman, married or unmarried, who shall be guilty of open and gross lewdness and lascivious behavior, or who shall designedly make any open or indecent or obscene exposure of his or her person, or of the person of another, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than one year, or by fine of not more than five hundred dollars. No prosecution shall be commenced under this section after one year from the time of committing the offense.

Section 17115–335 of Mason's Supp. (1933.)

One who reads with an open mind, who desires to put truth above his personal prejudices, who is tolerant toward the opinions of those who may honestly differ from him finds it rather difficult to understand how a leader of a group of disciples of the principles and standards of the International Nudist Conference could be found guilty of violation of the Michigan Public Acts of 1931, Chapter 47, Section 335, prohibiting indecency and immorality, but the court action is a matter of record and the verdict of the Circuit

Court of Allegan County has been upheld by the unanimous decision of the Supreme Court of the State of Michigan.

The more one studies the record of the trial in Allegan, the record of the appeal to the Supreme Court, and the decision of the Supreme Court handed down by Justice George E. Bushnell, the more one is amazed that the old bigotry, intolerance, fanaticism and hysteria of the seventeenth century witchcraft persecution have been reenacted, completely blinding judges against a fair, reasonable interpretation of English construction and causing them to refrain from any impartial thinking. In their determination to give nudism a death blow they turned their reason inside out, their logic upside down and rendered decisions which will go down in history with the decisions of judges who were adamant when lawyers seriously tried to persuade them that there were no such things as devils or their agents, called witches and wizards.

In England, Scotland, France, Germany, Italy, Switzerland, The Netherlands, and New England, in the days of Cotton Mather, the clergy as well as the laity hunted down and brought to

trial and death persons suspected of witchcraft.

In Salem, Mass., one may still see the "witch house" where Jonathan Corwin is said to have held preliminary examinations in the witchcraft trials. Salem was the center of the witchcraft delusions in 1692. Beginning with accusations by ten young girls that Tituba, the West Indian slave of the Rev. Samuel Parris, and two women had bewitched them, the hysteria spread rapidly and within four months hundreds were arrested and tried, 19 hanged and one pressed to death for refusing to plead. The one pressed to death was Giles Cory, eighty years old, who had refused to plead at trial. He was laid on the ground, bound hand and foot, and stones piled upon his body until his tongue protruded. The sheriff poked Cory's tongue back with his cane.

Cotton Mather (1663-1728) has been more celebrated than any other American Puritan. Harvard gave him the A.B. degree in 1678 and the A.M. in 1681. He was elected to the Royal Society in 1713 and the University of Aberdeen gave him an honorary degree in 1710. A fellow at Harvard for thirteen years (1690-1703), where his father, Increase Mather, was President,

he became prominent in educational circles and is said to have declined the presidency of Yale in 1722.

He was a notable Congregational minister and author, and achieved international fame as author of 450 works on history, science, biography, theology and religion. He was to some extent personally responsible for the witchcraft prosecution at Salem in 1692. He believed in witchcraft, investigated cases of supposed diabolic possession, and wrote, before the year 1700, several books on the subject. He was nervously sensitive, hot tempered, had traits of the fanatic and was very vain.¹

In 1661 the learned Sir Matthew Hale (1609–1676), Lord Chief Justice of England, “a person than whom no one was more backward to condemn a witch without full evidence,” used this language: “That there are such angels (as witches) it is without question.” Then he made a convincing argument from Holy Writ and added: “It is also confirmed to us by daily experience of the power and energy of these evil spirits in witches and by them.”² He was responsible for the condemnation and execution of two poor

women tried before him for witchcraft in 1664, a judicial murder then falling into disuse.³

A century later the learned Sir William Blackstone (1723–1780), the mentor of every English and American lawyer, joined with the witchburners in bearing testimony to the existence of these spook-humans. Blackstone said: “To deny the possibility, nay, actual existence of witchcraft and sorcery is at once flatly to contradict the revealed word of God in various passages of both the Old and New Testament, and the thing itself is a truth to which every nation in the world hath in its turn borne testimony, either by example seemingly well tested, or by prohibitory laws which at least suppose the possibility of commerce with evil spirits.”⁴

It is difficult for us to understand how intellectuals such as Cotton Mather, Sir Matthew Hale, Sir William Blackstone and judges, otherwise intelligent, were so blind as to believe in the reality of witches and, on the assumption that they were correct in their belief, proceeded to punish their fellowmen. It has been computed from historical records that nine million persons were put to death as witches and wizards after

1484.⁵ People who did not believe in witchcraft were denounced, and bigotry and intolerance reigned.

Witches ceased to be when men ceased to believe that witches existed. Today most people no longer believe in such bugaboos. Only the ignorant cling to such superstitions.

Today hundreds of thousands of intelligent people of high ideals believe that the nudist movement is the greatest movement for social progress in many centuries. They believe that obscenity will disappear when people cease to believe in it. They believe that this is a problem, not of law or morals or theology or religion, but of psychologic science, and they ask that the movement be observed with the calm dispassion of the true scientist in his search for truth rather than in the heated atmosphere of religion or morals so filled with prejudice, bigotry, fanaticism and intolerance.

These people are not being punished by death. Today persecutors are content to find them guilty of violation of a statute against immorality, indecency, obscenity and to call them morons, degenerates, sexualists and criminals, to say they are

engaging in a dangerous fad which threatens our moral standards and our most cherished institutions, that nudism is a reversion to the animal state, that it is a retreat from modern civilization, that it must be exterminated at all costs.

Mr. and Mrs. Fred C. Ring, of Kalamazoo, ardent devotees of social reform, have for several years been interested in the therapeutic, hygienic, psychological and sociological aspects of the nudist movement. With many years of experience in German Turnvereins and as proprietors of The Fred Ring School of the Dance in teaching ballet, toe, interpretative and castanet technique, acrobatic, tumbling, tap and ballroom dancing, Mr. and Mrs. Ring were abundantly capable of taking charge of calisthenic training and formed the Sun Sports League.

In the summer of 1933 they purchased fifty-five acres in Allegan County about eight miles west of Allegan. The ground is in a very secluded section and consists of a clearing surrounded by second-growth oak. The camp is three-quarters of a mile from the nearest residence, about the same distance from any public road and the only way to reach it is from State Highway 89 over an old

winding road used by hunters and fishermen accustomed to go to the bluff on Swan Creek. When the Rings purchased this land, they placed, across this road where it wound through the scrub growth and before it reached the clearing, a sign, "Private Drive." Below this sign, across the road, they fastened a chain to which was attached a metal sign reading "Keep Out." Beyond the chain and the signs and at the edge of the clearing, they built a barbed wire fence and a gate which was secured by padlock and chain.

People in the camp could not be seen from other land, except as they came down the private way, after they had passed the signs and the chain across the old logging road, or from land owned by a Mrs. Mary F. Angiers whose land, which Ring had refused to purchase for his camp, joined the Ring land on the south. The Ring land's southern boundary was, in part, defined by Swan Creek at the bottom of a deep ravine and this was thirty-five or forty rods across. It is so wide that Sheriff Fred Miller admitted that he had to borrow field-glasses from the conservation officer who was with him in order to see the camp distinctly.

From Mrs. Angiers' land, to the south and on the bluff across the creek from the camp, if people went down the rollway to the stream, they could be seen, but there was no evidence in this case that anyone ever saw Mr. Ring use the rollway. Sheriff Miller and Mrs. Angiers testified that when they went down for that purpose they saw some people without clothing going up and down the rollway. The trespassing officers and others who went with them testified that they saw Ring and other people without clothing after they reached the top of the bluff and were on the Ring property.

Bernath Brown testified that while he was fishing down Swan Creek on the fourth of September, he heard some people talking and that, as he approached, he saw two men and two women, all naked, turn and go up the sand bank.

Howard Falk testified that he, Mr. and Mrs. Wayne Plotts and Mr. Plotts' sister visited the camp at about three o'clock on the afternoon of September fourth and, from a distance of a hundred or a hundred and fifty yards, saw people who appeared to be nude. He had left his car at the entrance at the "private drive" sign and walked

over to the gate, conversed with men and women who were there, fully clothed, and there saw what appeared to be nude men and women in the distance. Asked why he and Wayne Plotts had taken the girls there, he replied that he and Wayne were hunting woodchucks and when they came back they found Blake Perrigo's and Elizabeth Liniger's cars. Those people asked the way to the nudist camp and the passengers of all three cars then went inside, past the point where the chain and sign had been removed by the deputy sheriff and the prosecutor, to the edge of the clearing and near enough to see people who appeared, at the distance of one hundred or one hundred and fifty yards, to be nude.

There was no evidence of any acts of indecency, obscene or lewd conduct, except the testimony of Sheriff Miller, not given in the Justice Court and given for the first time in the Circuit Court, that when standing across on the south side of the stream he saw a man, not Ring, and a woman engaged in some improper acts.

He said, "Well, I seen a lady, a male and a female, come down this runway; they stopped about half way down and I saw this male feeling

of this lady, then they turned out and went over in the bushes about half way down the bank.”

Mr. and Mrs. Ring and the others who were in the group at the time insist that this was perjured testimony. Pressed for more detail, Sheriff Miller said the people were blonds. There was no couple fitting that description. Sheriff Miller made no mention of such an observation when he made his statement in Justice Court and this seemed to be an after-thought to strengthen his case. How he could have overlooked such an important bit of evidence in Justice Court is hard to understand in view of the close questioning at that time.

Furthermore, Attorney Hoffman, questioning Sheriff Miller severely in cross examination, made him admit that he had not told a single soul about what he claimed he had seen from the moment he claimed to have seen it until he was on the stand in Judge Miles' court! Knowing all of the talk that went on about the case, such a statement is absolutely unbelievable except by one of the lowest order of intelligence.

But, for the moment, let us assume that the sheriff was telling what he actually saw through

field-glasses while looking across Swan Creek. The conduct was not in the presence of Mr. Ring. There was no evidence that Mr. Ring knew of such conduct. Yet, in spite of these facts and in spite of the fact that the sheriff had not testified to it in Justice Fidus E. Fish's examination and in spite of the fact that the sheriff had never mentioned it to the Prosecuting Attorney, Welburne S. Luna, or to anyone else, the jury was permitted, over the objection of Attorney Hoffman, to charge the respondent with the conduct of two persons who were entirely beyond his control.

The Supreme Court ruled that Judge Miles was not in error, saying that a jury's conception of what constitutes indecent exposure may very properly be influenced by *both the purpose and result* of the exposure, so that testimony as to conduct on the premises was admissible.

Surely one need not be a lawyer to see the utter injustice of that ruling. All evidence of psychologists, psychiatrists, physicians, and others to show the psychological, therapeutic, hygienic, educational and social benefits of social nudity *had been excluded* in the Allegan trial yet the

alleged conduct of a couple, married or single, in the rollway was *admitted* and upheld by the Supreme Court as showing *the result* of the exposure of Ring and others!

With two exceptions, all the witnesses went to the scene together for the purpose of obtaining evidence. Most of them were police and court officers and it was very important to respondent that each should not hear the testimony of the others, for the purpose of obtaining a fair report of what actually happened and what the witnesses actually saw, rather than having their stories interwoven and each testifying, in part, to what he knew and, in part, to what was suggested by other witnesses. *By unanimous vote of the Supreme Court all of this was fair.* Judge Miles had shown no abuse of the discretion to deny the defendant's request for the exclusion of the witnesses! Is it any wonder that people talk of closed minds on the Bench? Nudism had to be given a death blow, fair or foul.

One other point should be made regarding the evidence. It was obtained by trespassers. The sheriff was without warrant and without any particular complaint save that he had heard that

people were nude. The officers and others invaded the private property and the evidence was obtained in violation of the respondent's rights under the State and Federal Constitutions which guarantee his rights to freedom from search and seizure and to due process of law. In this case it was undisputed that the officers entered upon the premises of Mr. Ring without any authority, without any warrant, either for the arrest of Mr. Ring or for his search and seizure, and, therefore, whatever information the officers obtained was in violation of the Federal Constitution and evidence based upon acts of trespass should not have been considered by the court.

The offense was not a felony. It was not committed in the presence of the officers, except as the officers forced themselves upon private property. If evidence of this kind is admissible, then an officer, whatever his motive might be, could force his way into a home, into the private bedroom of a man and there, if he sees a man and woman naked, they can be convicted on evidence so obtained. The right of the people to be secure in their persons, houses, papers and effects has

been interpreted by the courts many times to cover not only the house but the curtilage, a yard or piece of ground included within the fence surrounding the dwelling house. The Rings were within their own property close to their cottages and tents, surrounded by fence and signs as described in this article.

I have given a brief but accurate report of the evidence. Now let us look at the Michigan statute. The prosecution was for violation of Section 335, page 691, of the Public Acts of 1931. This is under Chapter 47 of The Penal Code entitled "Indecency and Immorality." In looking up the statute I find in black face type the heading of Section 335 reads, "lewd and lascivious cohabitation, gross lewdness and indecent exposure."

Any man or woman, not being married to each other, who shall lewdly and lasciviously associate and cohabit together and any man or woman, married or unmarried, who shall be guilty of open and gross lewdness and lascivious behaviour, or who shall designedly make any open or indecent or obscene exposure of his or her person, or of the person of another, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than one year,

or by fine of not more than five hundred dollars. No prosecution shall be commenced under this section after one year from the time of committing the offense.

The portion which was violated, according to the decision of the Circuit and Supreme Courts was as follows:

or who shall designedly make any open or indecent or obscene exposure of his or her person, or of the person of another, shall be guilty of a misdemeanor.

In view of the fact that this Penal Code Chapter 47 is headed "Indecency and Immorality," and in view of the fact that Section 335 is headed "lewd and lascivious cohabitation and indecent exposure" it is only reasonable to assume that the word "designedly" meant for a purpose of immorality or indecency, to seduce or entice or shock. One is amazed that Judge Miles and the Judges of the Supreme Court would entirely ignore this reasonable interpretation and take the position that proof of open exposure of the person was all that was needed even though only in the presence of others of like mind, people who look upon the nudist movement as a great movement for social progress and who hold that witchcraft and

obscurity are twin superstitions. Now it is true that the statute says, "open or indecent" and not "open and indecent." As far back as 1857 the words "open" and "indecent" were connected by the word "and," while in the 1931 revision of the Code, for the first time, the word "or" was used. Whether the word "or" was inserted intentionally or whether it was an error of the stenographer in copying the bill cannot be ascertained. It first appeared in Senate files 491, Section 343. In view of this Chapter 47 heading and in view of the Section 335 heading, it is more reasonable to assume that the change from "and" to "or" was an error.

It should have occurred to the learned judges that the moment we concede that the word "or" was intentional, we have conceded that there could be open exposure without there being indecent exposure. The judges were not thinking very deeply at this point. They were very ready to take advantage of the expression "open or indecent," for evidence of open exposure was all that was presented. There had been no evidence of any indecent exposure.

The appellant, in his brief, submitted a clear

question, "Is one who, on his own property, privately goes without clothing, in the presence of persons whose sense of decency, propriety and morality is not offended, guilty of a violation of Section 335, Act 328 of the Public Acts of Michigan of 1931?" I quote now the Supreme Court decision: "The answer, in the light of the facts presented on the record, is 'Yes.' It is clearly shown that the appellant designedly made an open exposure of his person and that of others in a manner that is offensive to the people of the State of Michigan. Such exposure is both open and indecent."

Please note the glaring inconsistencies and contradictions in that short paragraph.

1. The word "designedly" is used in a way entirely unreasonable in view of the heading of Chapter 47 and the heading of Section 335, "Indecency and Immorality" and "lewd and lascivious cohabitation, gross lewdness and indecent exposure."

2. The statement is made that the practice of nudism privately on their own property in the presence of only those of like mind is offensive to the people of Michigan. I have been traveling

over Michigan since the trial of Ring in October, 1933. I have heard this discussed in scores of groups, and I have yet to hear one person say the Court decision was just. Sentiment has been overwhelmingly with the Rings and not with the prosecuting officials. Surely the court quite gratuitously attributed to the people a degree of offense which the people had never for a moment claimed for themselves.

3. The statement is made that open exposure is both open and indecent, an amazing statement after the court had held that all that was necessary for conviction under the act was to prove open exposure, the act prohibiting open *or* indecent exposure and not open *and* indecent exposure. Suddenly open exposure becomes both open and indecent.

How clever! The statute prohibits open *or* indecent exposure. Only proof of open exposure is required. No proof of indecent exposure is required or submitted. Presto change! There is no such thing as open exposure. Such exposure is both open and indecent!

Now since the judges were so insistent on taking the letter of this statute, why did it not occur

to them that their interpretation was going to get them into all kinds of difficulties? There is no mention of the sex in this open exposure. Every day in every Y.M.C.A., in many high schools and college swimming pools that statute, according to their interpretation, is violated. Swimming suits have not been worn by men in such places for many years, and it is now quite common for girls to go in together nude in the pools.

What about the life art and sculpture classes? At the University of Michigan girls from Detroit are employed to pose in the nude before both men and women students. Men students are employed to pose in the nude. The young men are frequently known to the girl students who draw or model them in clay. Visitors are welcome to those classes.

How indecent! When is all this "indecent" going to stop? When did art become so much more important than air and sun and water bathing in the nude, or the sociological or psychological benefits of mixed nude sun bathing or water bathing?

The judges have erred in taking the position

that the exposure of the human body is of itself indecent. The Greeks of the classical era did not so consider it. The early Christians baptized in the nude. The Japanese, the Russian or the Scandinavian men and women who bathe together do not regard such conduct as indecent or obscene. Sculptors and painters for many generations have not so considered it. The masseurs do not so consider it.

Brill's *Encyclopedia of Criminal Law*, Sections 1118 to 1121, gives a clear idea of the evil which statutes of this class are intended to prevent. The gist of the thing seems to be that where the tendency of such conduct is to deprave or corrupt the morals of those present, the act is punishable.

Perhaps the most amazing of all the paragraphs of the short Supreme Court decision of only 99 lines is the closing paragraph:

It is not necessary that the crime itself be particularly well defined. The average jury, composed of members of the community, has an instinctive realization of what constitutes a violation of the act. Instinctive modesty, human decency and natural self-respect require that the private parts of persons be customarily

kept covered in the presence of others. *People v. Kratz*, 230 Mich. 334. The case was fairly tried. The determination of the jury will not be disturbed, and the conviction is affirmed.

Justice Bushnell who wrote the decision told the writer that he and the other members of the Supreme Court have made no study of the nudist movement, that they were not passing on the merit of the movement, *per se*, that they were simply affirming the conviction of Fred Ring under Section 335 Act 328 Public Acts of Michigan of 1931. He then explained that the decision was based entirely on the case *People v. Kratz*, 230 Mich. 334 and handed me *The Michigan Reports* 230 to read the case and, to my amazement, I found that the case was one not at all analogous to the Ring case.

Mortimer Kratz was convicted of indecent exposure of his person in violation of Section 15467, 3 Comp. Laws 1915. He was convicted Sept. 17, 1923, in the Circuit Court of Muskegon County for open, indecent and obscene exposure of his person in the presence of Margaret Leversay, Lucile Leversay and Alice Jones.

When arraigned defendant stood mute, waiv-

ing nothing, and when the case was brought to trial his counsel interposed an objection to any testimony on the ground that the information under which defendant was arraigned did not set out any offense known to the law of the state. The Court held the information sufficient in that it followed the language of the statute.

Kratz was an elderly man who, though married, lived alone at time of the alleged offense on Howden Street in Muskegon Heights, near R.R. tracks and a gas plant across tracks on same side of the street with a vacant lot between grown over with small trees and bushes which was called by witness "the woods." Margaret and Lucile Leversay and Alice Jones were school girls, respectively twelve, ten and nine years old who passed Kratz' place as they went to and from school. He offered coins, appeared in "the woods" and made indecent and obscene exposure of his person to them. Conviction in Circuit Court was affirmed by the Supreme Court.

A jury made up entirely of nudists would have voted Kratz guilty. Nudists do not claim that they have any right to go before others who are not of like mind. This man was an erotic exhibi-

tionist and was guilty of shocking three school girls to whom his action was indecent.

On the contrary the Ring group was made up of some forty people, including business men, professors, surgeons and other professional men and their families, people who sincerely believe that witchcraft and obscenity are twin superstitions and that this movement is the greatest movement for social progress and moral uplift in hundreds of years.

It did not occur to the Supreme Court justices that, had the ideas of the nudists been in practice years before 1923, what Kratz did could never have happened. Kratz' eroticism was made possible by the propagation of the erroneous idea that the human body is indecent and obscene and Kratz was getting a thrill by exhibiting that portion of his anatomy which society had taught him is nasty, indecent and obscene. Had society not fallen for the fallacious idea which prevails, Kratz would never have thought of exposing his person any more than his face or his hands. Such an exposure would have given him no erotic satisfaction whatever, and the sight of a nude man

under different circumstances would have given no shock to the children.

Nudists would not, however, agree with some of the statements made in the decision, statements quoted from other decisions previous to this Kratz case of 1923. As usual, the Circuit Court judge and the Supreme Court judges merely followed precedent and quoted old opinions:

The well settled and generally known significance of the phrase "indecent and obscene exposure of the person" is the exhibition of those private parts of the person which instinctive modesty, human decency or natural self-respect require shall be customarily kept covered in the presence of others.

As a general rule it is held sufficient to charge the offense in the language of the statute although in a certain class of cases it has been held not sufficient. This belongs to that class of cases of which it was said in *State vs. Millard* 18 Vt. 577 (46 Am. Dec. 170) a prosecution involving indecent exposure of the person. (1846.)

No particular definition is given by the statute of what constitutes this crime. The indelicacy of the subject forbids it, and does not require the court to state what particular conduct will constitute the offense.

The common sense of decency, propriety and morality, which most people entertain, is sufficient to apply the statute to each particular case, and point out what particular conduct is rendered criminal by it.

The reader will see that Justice Bushnell was correct in saying that the decision in the Ring case was based entirely on this Kratz case. Much of the language is used almost verbatim, and the last paragraph of the Ring decision is a mere repetition of this paragraph of the Vermont Millard case decision which was quoted by the Michigan Supreme Court in the Kratz case decision.

Justice Bushnell uses the paragraph which includes the expression "instinctive modesty." There is no such thing. By instinct every child born is a nudist. There is no consciousness of shame. Modesty is taught by mothers who say, "shame, shame" or "naughty, naughty" and "mustn't touch" and gradually instill into the child the idea that the body is indecent and obscene. *The Encyclopedia Britannica* says, "Modesty is a feeling of acute self-consciousness due to appearing unusual, and is the result of clothing rather than the cause."

The late Frances Newman remarked: "Noth-

ing is so immodest as modesty." A few years ago women of all ages were wearing knee-length skirts and there were those who called those short skirts "immodest," but when they were so general, exposed knees could not arouse "a feeling of acute self-consciousness due to appearing unusual." The modern era of comfort in dress for women brought feminine knees into the light of day, just as the era of sun bathing and air bathing and practical psychology has brought nudism into acceptance.

The judges think the common sense of the community, as well as the sense of decency, propriety and morality which most people entertain, is sufficient to apply the statute to each particular case, and point out what particular conduct is rendered criminal by it. The average jury composed of members of the community, says the Michigan Supreme Court, has an instinctive realization of what constitutes a violation of the act. And then the Court makes the statement "Instinctive modesty, human decency and natural self-respect require that the private parts of persons be customarily kept covered in the presence of others."

Unfortunately the members of the Michigan

Supreme Court were no more inclined to open-minded thinking than the average jury of which they spoke, so they make no distinction between the Ring group of fine, clean, upright citizens who were working for social progress and an erotic exhibitionist in Muskegon Heights who would have been voted guilty by any nudist. Instinctive realization was all that was necessary to write a decision confirming the conviction of Fred Ring and basing it entirely on the decision confirming the conviction of Mortimer Kratz, a case in no way analogous and so vitally different that the latter case is nauseating to all open-minded, intelligent people.

I should mention here that the statement of Justice Bushnell to the effect that the Supreme Court was not passing on the merit of nudism, *per se*, does not check at all with his statement in the decision which reads as follows: "Such exposure is both open and indecent." What could have prompted Justice Bushnell to make a statement so completely at variance with the decision, I cannot imagine.

Many eminent lawyers have expressed the opinion that an appeal to the Federal Courts on

the ground of constitutional rights would have been successful. The "due process of law" clause in the Federal Constitution opens up a pretty wide gate in such cases. Even bootleggers, in every way guilty of law violations, successfully pleaded violation of private property rights and secured reversal of convictions rendered in the lower Federal Courts.

Three grounds for constitutional appeal were offered: (1) Invasion of private property, the home and its curtilage. (2) Conviction under a law which failed to define the offense in such terms that it could be objectively recognized, leaving its application, and therefore its definition, entirely to the subjective state of the judiciary. "Where there is no definition, there is no law" is an old and accepted principle in jurisprudence. Surely no conviction under such a law could be upheld in the Federal Courts. (3) Misapplication of a law designed for immorality to a case in which there is no charge of immoral conduct. Appeal from the decision of the Supreme Court of Michigan could have been made, of course, only on these constitutional grounds, and such action was not taken within the time the law allows for such

appeal. Practical considerations were such that the situation was accepted rather than drag through a long expensive fight in the Federal Courts but nudists will never have a better case to appeal to the Supreme Court of the United States.

Thus far courts in other states are taking a more sane view than have the courts of Michigan. The American League for Physical Culture in New York was the first group to have experience with the law applied to social nudism. Twice the members were arrested and charged under section 1140 of the Penal Code of the State of New York, once in a rural county and once in New York City. In the first instance, before a rural justice of the peace, they were recharged and fined five dollars apiece for disorderly conduct; in the second, their case was dismissed, the magistrate holding that lewdness must be proved, and that mere nakedness, even in mixed company, does not necessarily constitute lewdness. In this trial the nudists were also given an intimation that place and company may be a factor. The prosecuting attorney moved that they be recharged under section 43, which reads: "A person who wilfully and wrongfully commits any act

. . . which openly outrages public decency, for which no other punishment is expressly prescribed by this chapter, is guilty of a misdemeanor." But the city magistrate held that since the nudists' gymnasium was inaccessible to the public (the police had to obtain their evidence by looking through a hole in the skylight), their activities could not "openly outrage public decency."

In May, 1934 social nudism was given official sanction in California, provided those who prefer to go without clothes keep out of places where there are others to be offended or annoyed. On the twenty-third of May, 1934 papers carried the following story:

District Attorney Whelan in a statement yesterday said that after an investigation of Campo Nudista, established by Marion Nichols at Jamul, he found no law was being violated. His statement said: "The gate to this alleged camp is a quarter of a mile from the public highway, and the camp itself some distance further in a secluded spot not visible to the public. The camp is kept under lock and key and when the investigators were admitted the entire party were partially clothed. The parties readily admitted that when alone, they engaged in games of volley-ball and

other sports while in the nude. They refused a close up picture, but agreed to engage in a game of volley-ball while nude and pictures were taken of the players while engaged in the game. The only section of the penal code under which prosecution of the activities of these parties could be conducted is section 311, which provides in part as follows: 'Every person who wilfully and lewdly exposes his person or the private parts thereof in any public place or any place where there are other persons to be annoyed or offended thereby, is guilty of a misdemeanor.' In this particular instance this alleged camp is in the country in a secluded spot and kept under lock and key, and inasmuch as no person exposes himself in any public place or in any place where there are persons to be offended, there can be, obviously, no prosecution under section 311 of the penal code; and as the people of this camp are very careful not to allow themselves to be seen by the general public, or by anyone not a member of the group, I think section 311 of the penal code is not applicable. Therefore, until a person can testify that any member of this group has exposed himself in a public place or in a place where other persons were present who were offended, I think there can be no prosecution."

It should also be noted that the Florida law which stringently forbids the exposure of the person as between the two sexes, finally concludes

with the phrase: "Provided, however, this section shall not be construed to prohibit the exposure of such organs or the person in any place provided or set apart for that purpose." It is readily seen that this provision opens the way for the establishment of nudist groups in Florida. In Kentucky a law was introduced in the 1933-1934 legislature designed to make impossible the practice of nudism. By the time it had passed, however, it was so altered that it now recognizes the fact of nudism and provides for its legal practice within the state.

Thus it will be seen that in the states of New York and California, Florida and Kentucky a more reasonable attitude toward nudism and a more just interpretation of the law have been taken by officials.

This more reasonable interpretation has prevailed also in New Jersey where county prosecutors have given it as their opinion that the proper and wholesome practice of social nudism does not violate the statute. In Maryland the Attorney General expressed the same opinion. On being urged to drive social nudists out of Virginia, former Governor Pollard expressed a similar view, saying, "When the nudists violate the stat-

utes, they will be dealt with as any other violators." Governor Green of Rhode Island vetoed a bill passed by the legislature in his state.

Thus intolerance in Michigan has been offset by a more enlightened attitude in New York, California, Florida, Kentucky, New Jersey, Maryland and Rhode Island. This must make interesting reading for Judge Miles, Sheriff Miller and Prosecuting Attorney Luna in Allegan County, Michigan and for all the members of the Supreme Court of Michigan who upheld the infamous decision of the Allegan County Circuit Court in the Ring Case. Those Michigan men knew that the Michigan statute of 1931 was written to prohibit indecency and immorality, "lewd and lascivious cohabitation, gross lewdness and indecent exposure." They knew that from 1857 until the revision of the Code in 1931 the wording was "open and indecent," and that in 1931, probably due to the error of a typist, the expression became "open or indecent." They knew they were giving an absurd and unreasonable interpretation of the statute. They knew that they were guilty of misapplication of a law designed for immorality to a case

in which there was no charge of immoral conduct. They knew that they were convicting Ring and upholding his conviction under a law which failed to define the offense in such terms that it could be objectively recognized. They were familiar with the old and accepted principle of jurisprudence, "Where there is no definition, there is no law." They knew the old maxim, "Where the law is uncertain there is no law," and that consequently there is in such cases no "due process of law."

A statute such as exists in many other states would have made such persecution impossible. In Arizona, California, Idaho, Indiana, Montana, Ohio, Oregon, South Dakota and Utah the statute reads, "Every person who wilfully and lewdly exposes his person or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby." Advocates of social nudism have no objection to such a statute. They do not propose to force their views on others by appearing in public places or in the presence of people who are not of like mind. They hold that the damaging and

damnable superstition of the obscenity of the human body must be broken down by a gradual process of education, not by forcing their idea upon "persons who would be offended or annoyed thereby."

VIII

A MOVEMENT NOBLE IN PURPOSE HANDICAPPED BY THE SUPERSTITION OF THE BODY'S OBSCENITY

THE LEGION OF DECENCY PLEDGE

I hereby join the Legion of Decency, which condemns vile and unwholesome moving pictures. I unite with all who protest against them as a grave menace to youth, to home life, to country, and to religion.

I condemn absolutely those salacious motion pictures which, with other degrading agencies, are corrupting public morals and promoting a sex mania in our land.

I shall do all that I can to arouse public opinion against the portrayal of vice as a normal condition of affairs, and against depicting criminals of any class as heroes and heroines, presenting their filthy philosophy of life as something acceptable to decent men and women.

I unite with all who condemn the display of suggestive advertisements on billboards, at theater entrances, on the screen as trailers during performances, and the favorable press notices given to immoral motion pictures.

Considering these evils, I hereby promise to remain away from all motion pictures except those which do not offend decency and Christian morality. I promise further to secure as many members as possible for the Legion of Decency.

I make this protest in a spirit of self-respect, and with the conviction that the American public does not demand filthy pictures, but clean entertainment and wholesome features.

The pledge given above is the form sent out by the Federal Motion Picture Council in America, Inc., 134 B Street, N. E., Washington, D. C. It is similar to the one printed in *The Living Church*, 1801 W. Fond du Lac Avenue, Milwaukee, Wisconsin, with a few changes.

At this writing, The Legion of Decency has been at work for one year. *The Christian Century*, an undenominational liberal journal of religion, evaluates the League's first year of activity in the following words:

The Legion of Decency swung into action a year ago this spring. What is it? What has it done? What has it not done? What of its future? An appraisal may be useful.

It is an organization started by the Roman Catholics and quickly joined by Protestants and Jews for the

purpose of cleansing motion pictures. That the times were rotten ripe for such an organization, even the most liberal-minded agreed. George Jean Nathan, a staunch protagonist for freedom for all the arts, in a leading article in the highly sophisticated *American Spectator* charged that the movies had become so filthy that they "did not deserve the least consideration from any anti-censorship organization." Specifically Mr. Nathan declared:

How the intelligence of a public is to be affronted and how its cultural rights are to be invalidated by eliminating from the movies scenes in which Mr. James Cagney pinches his old grandmother on the bottom, literary moments in which Mr. William Powell, surprised by an intruder while he and a lady are seated respectively on a water-closet and bidet, jocundly observes. "That's all right; we're only chatting," and episodes in which Miss Mae West sardonically employs her spacious backside in lieu of repartee, I should like the anti-censorship crusaders, including those with whom in other directions I am wholeheartedly affiliated, to explain to me.

Such indecencies were mild compared to more serious revelations made by the Payne Fund studies. Yet the Legion of Decency did not propose any form of legal censorship to accomplish the necessary cleaning. It proposed simply a public boycott of dirty pictures. It not only proposed it; it organized it with a shrewd

common sense and practical forthrightness characteristic of the Roman Catholic church.

It threw its mighty organization into high gear and in a few months established state and diocesan and parish committees in practically every section of the United States. Estimates of the number of Roman Catholics alone who signed the Legion of Decency's pledge to boycott indecent films vary from six million to eleven million. Meanwhile, Protestant churches, individually and through the Federal Council of Churches, took up the cause, adopted a similar pledge and brought additional multitudes to join the boycott. The leading Jewish organizations followed suit. The Catholics began to issue classified lists of movies, some suitable for families, others for adults only, and others unfit for any human being. Protestants and Jews, lacking the centralized authority of the Catholics, asked their individual members to follow their own consciences in the selection of pictures, but endeavored to enlighten their discrimination by spreading widely such appraisals as those of the National Film Estimate service published weekly in *The Christian Century*.

Back of all this practical action lay the years of educational work conducted by the Motion Picture Research Council under the leadership of the late William H. Short, the Payne Fund studies inaugurated by that organization, and the journalistic campaigns of *The Churchman*, *The Christian Century*, and other religious and educational journals.

What has this crusade accomplished? Any intelligent patron of the movies will give an unhesitating answer. He sees the results in his local theater. Current pictures are not only far freer from objectionable material, but they have a higher percentage of positively constructive films. *Variety*, the trade organ of the theatrical industry, estimates that the boycott actually cost the producers nearly ten million dollars, partly in the scrapping of pictures scheduled for production and partly in sending others back to the studios for dry cleaning. Local censorship boards (only five states have censorship boards) report that they now have to cut from 40 to 60 per cent less than a year ago. Best of all, the public is being given such pictures as "David Copperfield," "The Little Minister," "Clive of India," "The Mystery of Edwin Drood," "The County Chairman," "Lives of a Bengal Lancer." Scheduled for early production are Dante's "Inferno," Galsworthy's "Forsyte Saga," Pearl Buck's "The Good Earth," Lloyd Douglas's "Magnificent Obsession," and Karel Capek's "R.U.R." Such pictures represent not more than ten per cent of the total year's output. But no other year has offered even that percentage of first-rate pictures.

But this is not all. More important is the fact that the producers, fearing that the crusade would eventuate in a campaign for legal censorship, acted quickly and set up a censorship of their own within the industry. Thus in 1934 they put into effect and implemented

the code of ethics which they signed so solemnly, ballyhooed so loudly, and ignored so contemptuously in 1930. They gave their hired defender, Mr. Will Hays, the authority to pass upon every picture released by the motion picture trust, which is responsible for about 98 per cent of the pictures produced in America. Mr. Hays delegated his previewing duties to Mr. Joseph I. Breen, a Roman Catholic layman, and a staff of able assistants. Mr. Breen or his assistants now preview every picture which the trust produces. They check it against the somewhat vague promises of the motion picture code of ethics of 1930. They have authority to reject a picture in whole or in part. When they finally approve a picture for distribution, they give it a certificate commonly known as the "purity label." Any trust producer who distributes a picture without this label is subject to a fine of \$225,000 imposed by the industry.

Let no reader think that Mr. Breen has an easy job, or that all the producers have been eager to comply with his liberal requirements. According to Mr. Marlen Pew, writing in *Editor and Publisher*, Mr. Breen has need for all the backbone and intestinal stamina he can command. Says Mr. Pew:

Stories drift back from Hollywood about Joe Breen's heavy encounters with irate movie directors, still disposed to resist his film clean-up crusade. Occasionally sparks fly in the preview studios like Pain's fireworks. Someone told me that Mr. Breen, who is nobody to insult, backed a

foreign director into a corner and made him apologize for such slurs as "narrow-minded Puritan," "evil to him who thinks evil," "old Dr. Fixit," and similar alibi cracks standard among those who purvey filth in literature while posing as something modern. "You can't dump your dirt on the people of this country and call it humor," said Joe Breen. "We know the difference between an honest laugh and a smirk. There is a Puritan standard in America which we are not ashamed of, and your conceit of broad-mindedness is only a cover for incompetency."

Fortunately Mr. Breen has more than the weapon of fear to fight with. He can point to the box-office record of the better pictures. Bewildering as it is to some producers, the record of such excellent pictures as "Lady for a Day," "David Harum," "Little Women," "House of Rothschild," "One Night of Love," "It Happened One Night," "The Barretts of Wimpole Street," and "David Copperfield," gives the lie to the notion that the public will pay only for filth. Mr. P. S. Harrison, who within the industry has fought valiantly for clean pictures for sixteen years, declares in his Harrison's Reports that Mr. Breen and the Legion of Decency have saved the industry from financial as well as moral suicide.

So beneficent have been these results of the Legion of Decency's work that one is tempted to put a final period on this editorial at this point. But to do so

would be to fail in both honesty and candor. Striking as are the concrete results of the Legion of Decency's first year, no less striking is the list of things it has left undone. It has failed to tackle anything except the most outward and superficial indecencies. It has entirely ignored the sickness within. It has concerned itself with obvious symptoms and ignored inner causes. It has had not a word to say about dishonesty or insincerity in the making of pictures, nor about the inanity of the short reels, nor about a free market, nor about block-booking and blind-selling and the ownership of local theaters by national producers. These, in the view of *The Christian Century* and of most students of the motion picture situation, are the underlying causes of the mischief in the movies. Until these causes are removed the worst evil of the movies will not be removed.

What is that worst evil? Nothing less than this: The movies constitute a new educational system in conflict with the system represented by our schools and churches. That was the fundamental finding of the exhaustive Payne Fund studies. Our schools and churches have been upholding spiritual values; the movies, material values. Our schools and churches have been teaching that the good life is one that is honest, courageous, hard-working, controlled, loyal, faithful, cheerful, kind. The movies (with a few notable exceptions) have been subtly teaching that the good life is one that is exciting, passionate, daring, bold,

sophisticated, smart. Both these conceptions of the good life cannot be right. They conflict. If the movies are right, we would do well to scrap our present schools and churches and rebuild them as institutions to promote the acquisitive life. On the other hand, if our schools and churches are right, we must rebuild our system of making and distributing movies.

And that brings us to the present system. A moment's examination will reveal how the movies have come to be the handmaiden and the schoolmarm of the acquisitive life. The root of the trouble is that the motion picture trust producers make their pictures primarily for the large downtown metropolitan theaters which they own, and whose audiences are made up of the sophisticated and acquisitive-minded adults of those sections. The producers then wish those same pictures by the block-booking system upon all the smaller theaters throughout the country where family audiences and children predominate. Thus the mental diet prepared for the sophisticated adult audiences is forced willy-nilly upon the youth of the nation. Obviously no external rules of decency can possibly touch this real evil of the movies. For what are all the rules concerning nakedness and the description of how to commit a burglary compared with these?

Walter Lippmann recently put his finger on the weak spot in the frequent attempts to reform the movies. In one of his syndicated newspaper articles he said that the method of reform has been simply that of

imposing restrictions from without, either through legal censorship or organized boycott. This method is inherently weak, he held, because it is an attempt to make producers refrain from making pictures which they think might be profitable, and causes them to try continually to evade and circumvent the restrictions. The result is a battle of wits against the censors, whether Mr. Breen or those established by law, and the chief effect of that battle is "to put a premium upon the indirectly suggestive, which, when it becomes expert, may be far more provocative than outright lewdness and open criminality. . . . The damage is done long before the actress exposes herself or dies miserably in a hospital as a concession to virtue, or the gangster has been handcuffed. The damage is done when the prostitute and the gangster are shown living in splendid houses wearing magnificent clothes . . . and riding around in great limousines. That is when the destruction of moral values takes place, and no censorship has or will interfere with it."

Mr. Lippmann's cure is essentially the same cure *The Christian Century* has advocated: Divorce the production of pictures from the ownership of theaters; open the door to genuine competition by independent and experimenting producers; outlaw block-booking and blind-selling. If your local exhibitor did not have to buy his pictures in blocks, the bad along with the good, but were free to choose only such pictures as he thinks his community wants, the responsibility would

then be up to the community to guide him in his selection. As Mr. Lippmann says, "The evils of the movies are not from too much liberty for the giants, but from the destruction of real liberty by the giants."

As for the inane shorts, they too are the product of the same system, for practically every major producer block-books his short reels along with his feature pictures. Every parent knows the sickening dismay he feels when he has to let Johnny and Mary sit through fifty minutes of driveling nonsense alleged to be comedy in order to see one of the feature pictures endorsed by a reliable appraisal service. Frequently the evil effects upon the imaginations, emotions, behavior patterns, and conduct resulting from these short reels more than offset the positive contribution of the longer picture.

Decency is not enough. A picture may be decent and still be dishonest because it exalts the wrong values. It may be decent and still be vicious. It may be decent and yet be deadly dull, and dullness may be as harmful to the soul as indecency. We have said it before; we say it again: What we want is honesty and sincerity and some touch of greatness in the making of pictures. We want pictures that do not lie about the true human values. We want pictures that are sincere in their portrayal of life. Pictures by artists who see life steadily and see it whole. Pictures which no longer defame America and her people among the other nations. Pictures which portray us as we are, blundering per-

haps, but struggling toward a better common life, urged onward by a certain inner heritage of convictions about life and liberty and the pursuit of happiness. Not propaganda; not preachy pictures or sentimental ones. We want great pictures—pictures with great characters, great conflicts, great humor, great imagination, and if possible, something of the poetry of life.

We don't want to restrict the motion picture industry. We want to free the artists in it—and there are many of them—so that they may serve the entire public and not simply the profits of a few. We want to free the exhibitors to serve their communities first and the producers second. With rather desperate eagerness we want the producers to rebuild their production and distributing systems so that the motion pictures will become the allies and not the enemies of our schools and churches in the building of a better country and a better world.

If the Legion of Decency will adopt some such goal and throw its mighty organization into a drive for it, its future will be one of struggle but increasing usefulness. If it does not, it will go the way of all reform movements that treat symptoms rather than causes.

The reader will note that *The Christian Century* makes no mention of the war waged by the Legion of Decency on the social nudist movement. Many advocates of social nudism as a great edu-

cational and social force agree with much of what *The Christian Century* says of the need for better movies. Not all would agree with the methods advocated. Many advocates of the movement to lift the body taboo, especially the intersex taboo, are very sympathetic toward the Legion of Decency movement. All advocates of social nudism oppose the body being made the subject of levity or erotic exploitation. They vigorously oppose the commercializing of sex curiosity. Their goal is the healthy mind in the healthy body. They believe in the essential wholesomeness of the human body, and all its functions. They condemn vile and unwholesome motion pictures, salacious motion pictures which corrupt public morals and promote a sex depravity which inspires immorality, illicit relations or is disruptive of conjugal happiness. There seems to be, however, some honest difference of opinion as to what constitutes indecency and what offends Christian morality.

The New York Legion of Decency is so obsessed by the superstition of the obscenity of the human body that it is attacking social nudism, a movement which is working to destroy smut in movies, on the stage, in books and magazines by destroy-

ing the thing which puts smut and dirty stories in people's minds, the superstition of the obscenity of the human body, especially the organs of reproduction.

Seven Roman Catholic members of the New York Archdiocese's Council, headed by former Governor Alfred E. Smith, presented a bill to the state's Senate and Assembly. The bill proposed that the penal law should be amended to prevent what is called "indecentcy such as may be practised under the guise of nudism." These deluded reformers, including the notorious advocate of legal liquor, Alfred E. Smith, said, "It is inconsistent to take a stand for decency on the screen and ignore it in reality. We cannot overlook indecentcy in its substance while condemning it in the shadow."

News-Week, issue of January 12, 1935 said:

A court action precipitated the council's surprise attack. Last Spring Fred Topel, proprietor of an upper-Broadway swimming pool in New York; Frank Maniscalco, his physical instructor, and Vincent Burke, head of the Olympian League of Nudists, were arrested. Detectives paid \$1 to get inside Mr. Topel's establishment, where they were horrified to see men

and women of the nudist league frisking about naked.

Hailed before a court, the three men were lectured by Magistrate Thomas A. Aurelia. "Even Adam and Eve," he snorted, "used a figleaf."

The Special Session Court found the men guilty, but the Appellate Division of the Supreme Court reversed the decision. This action convinced the Legion of Decency that the law was inadequate.

The nudists were both surprised and hurt by the new attack. It pained them to have such a liberal as Al Smith come out against them. The white-haired Baptist minister and executive secretary of the International Nudist Conference asked what had happened to Mr. Smith, who once said: "You can't make a people moral by legislation."

The Rev. Dr. Henry S. Huntington, a Presbyterian minister, is vice chairman of the nudist conference's board of directors. His lips parted in a smile and his steady eyes twinkled behind his glasses when he spoke of Mr. Smith. "Al Smith is such a delightful person," Dr. Huntington declared. "He's shown us what a hearty, vigorous soul he has. . . . When he understands the nature of our movement he'll be amazed that he ever sponsored such a campaign of repression."

Dr. Huntington claims many ministers belong to nudist organizations. His unclothed groups number more than 200 in this country, and the liberally illustrated monthly Nudist magazine has 78,000 readers.

American nudist-club members range from four-months-old babies to 76-year-old women. Some groups are open only to married couples; others are unrestricted. Dr. Huntington has discovered that men join more readily than women—"the man being more adventurous than the woman."

All nudists, reports the clergyman, are enthusiastic about the movement. He claims it safely removes sex curiosity which causes so much mental conflict in people. He has reams of evidence to prove this. Just the other day he asked a woman what she got from the movement. Without any hesitation she replied: "Well, I've learned that there are other respectable men besides my husband."

Dr. Huntington cleared his throat. "Of course," he added earnestly, "you understand what she meant."

Apparently, Magistrate Thomas A. Aurelia does not know that no actual Adam and Eve ever lived, that the story of the fig leaf is taken from an old legend based on the idea that all sexual copulation was carnal sin and that when the husband and wife yielded to temptation and enjoyed the sexual relation, they were, for the first time, ashamed of their nakedness and covered their sexual organs with fig leaves. Probably wise Magistrate Aurelia holds the view of the early Christian fathers, Gregory of Nyssa and John of

Damascus and many others, that if Adam had preserved his obedience to the Creator he would have lived forever in a state of virgin purity, and some harmless mode of vegetation would have peopled Paradise with a race of innocent and immortal beings.

The Nudist, in the issue of March, 1935, carried the following editorial by Rev. Henry S. Huntington:

The so-called Burke case scarcely needs re-telling, but the reversal of the lower court's decision by the Appellate Division of the New York Supreme Court was a perfect vindication of the insistent claim of the nudists that "nudism" is not "lewdism," that nakedness *per se* is not obscene or indecent within the meaning of the law.

Let us briefly review the facts as brought out at several trials. On April 3, 1934, Vincent Burke, director of the Olympian League, was in charge of a nudist gymnasium session at Topel's Swimming School in upper Manhattan. Letters had been sent out to the Olympian mailing list urging attendance. One of these letters came into the hands of Detective Louis Barr, who, accompanied by Miss Anna Brady, a policewoman in plain clothes, ventured a visit with the nudists. For the privilege he paid a one dollar fee for himself and Miss Brady. Though invited to join in with

the group, officers Barr and Brady pleaded that they were "new" to the idea and preferred to sit on the side lines for their first night. The usual nude exercises were followed by nude swimming, all of which Detective Barr felt was in brazen violation of the New York statute, which plainly declares:

A person who wilfully and lewdly exposes his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another so to expose himself, is guilty of a misdemeanor.

In due course Mr. Burke, Fred Topel, manager of the gymnasium, and Frank Maniscalco, the physical director, were arrested, arraigned in magistrate's court and held over for trial in the Court of Special Sessions. At the trial before Justices Brady, Kernochan and Flood it was brought out that in December, 1931, Magistrate Goldstein in another nudist gymnasium case had dismissed all of the twenty-two defendants, stating that unless lewd or lascivious conduct could be shown, mere nudity was not a violation of the statute. The nub of the entire case appeared in the following testimony of Detective Barr.

Q. Did you see any exercises at this meeting which you wouldn't see in a gymnasium of any other kind, which would be improper if they had their clothes on? Ans. No.

Q. In other words, the exercises were the ordinary gymnasium exercises? Ans. That's right.

It thus appeared that no indecent behavior of any sort was alleged and the prosecutor conceded that there was nothing in the record indicative of lewdness or lasciviousness. When, therefore, the court by a two to one decision found the defendants guilty, Justice Kernochan dissented and expressed himself as follows:

I don't feel that the law at present, enacted a number of years ago, is sufficiently broad enough to render a conviction on this evidence. It is possible, should the Legislature see fit, to stop this practice. I think it should be dealt with at the next opportunity to pass laws in that regard.

It should be noted in passing that, quite apart from his suggestion in the latter part of his dissenting opinion, Justice Kernochan saw clearly the nudist point of view and recognized its thorough legal soundness, as had Magistrate Goldstein three years before.

Notwithstanding Justice Kernochan's dissent, the Court's opinion stood as a severe blow to the nudist movement. Two of the defendants took suspended sentences and Mr. Burke paid a fifty-dollar fine. Matters would have rested there had not the International Nudist Conference taken up the case at that point and in co-operation with the American Civil Liberties Union carried it to the Appellate Division of the Supreme Court, where, on December 24, in a four to one decision, the court reversed the decision of the Court of Special Sessions and sustained Justice Kernochan's dissenting opinion, remarking briefly:

On the final analysis, the crimes charged in the different counts are based primarily on an alleged violation of section 1140 of the Penal Law. In the light of the testimony adduced in this particular case, we believe that the conclusion reached by the dissenting justice of the Court of Special Sessions was based upon a solid foundation and the judgment entered should be reversed, the information dismissed and the fine remitted.

Notwithstanding the soundness of this legal position, the prosecuting attorney, encouraged by Justice Merrell's ten-page dissenting opinion, entered an appeal to the Court of Errors and Appeals, the highest tribunal in the state. At the same time, *because* of the soundness of this decision, the Catholic Legion of Decency of the Roman Catholic archdiocese of New York announced that it would introduce a bill into the New York legislature to make the practice of nudism illegal. It proposed the following law:

AN ACT TO AMEND THE PENAL LAW IN RELATION TO INDECENT EXPOSURE OF PERSON.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Article 106 of the penal law is hereby amended by adding thereto after Section 1,140-A thereof, a new section known as Section 1,140-B, to read as follows:

A person who in any place wilfully exposes his person, or the private parts thereof, in the presence of two or more persons of the opposite sex whose persons, or the private parts thereof, are similarly exposed, or who aids or abets any such act, or who procures another so to expose his person, or the private parts thereof, or who as owner, manager, lessee, director, promoter or agent, or in any other capacity, hires, leases or permits the land, building or premises of which he is the owner, lessee or tenant, or over which he has control, to be used for any such purposes, is guilty of a misdemeanor.

SECTION 2. This act shall take effect immediately.

The next day the press of the country carried the story of the anti-nudist attack and the following day the I.N.C.'s reply. It was pointed out that when Alfred E. Smith, as spokesman for the Legion of Decency, had inveighed against "indecent under the guise of nudism" the nudists were in thorough agreement with him; that our objective, like that of the Legion, is a better, a cleaner, a finer social order, but that in place of prohibition and suppression advocated by the Legion, the nudists preferred frankness and reality. The bill was introduced in the legislature on January 7 and steps were taken at once to insure a hearing with good nudist representation at Albany.

Had Vincent Burke knowingly admitted visitors for a fee, people who were not interested in the therapeutic, sociological, psychiatric or psychological benefits of social nudism; people who were not convinced that the idea that the human body is obscene is a damaging superstition, then he would have been commercializing and exploiting sex curiosity, the very thing advocates of social nudism condemn. To make nudity a spectacle is contrary to the fundamental idea of social nudism. Perhaps Mr. Burke was not sufficiently careful about credentials. Most of the newspapers certainly implied that such was the case. Some even implied that visitors were generally admitted for an admission fee. Evidence seemed to prove, however, that the policeman and policewoman who attended the meeting were admitted on the understanding that they were about to become members of the club. At the trial they offered no evidence that the general public could or would have been admitted. They admitted that they had lied to gain admittance.

The Special Sessions Court of three judges found the men, Burke, Topel and Maniscalco

guilty. Their thinking was on a par with that of Judge Miles and the members of the jury in the Circuit Court of Allegan County in Michigan and the Michigan Supreme Court Justices. Fortunately, the Appellate Division of the New York Supreme Court was made up of men of more intelligence. By a vote of four out of five Supreme Court Judges, the decision of the Special Sessions Court was reversed. Upon appeal of the prosecutor, the case was appealed to the Court of Appeals where four of the six judges voted that the admission of a policeman and policewoman who had surreptitiously gained entrance to the nudist gymnasium upon pretense that they were prospective members could not by any stretch of the imagination be construed as the admission of the general public upon payment of a fee. Only three out of eleven judges dissented from this opinion.

Public opinion seems to be against Alfred E. Smith and his friends of the Catholic Legion of Decency. People are coming to see that the sex associations of nudism begin to fade the moment the shrouds of mystery are lifted. The undraped figure ceases to shock. The nude is less and less a subject of reprobation. Surely any open-minded

observer must see that a change is taking place in public opinion regarding nudity. Hundreds of thousands of the best people, people who are exemplary in their personal conduct, people who never indulge in dirty stories, people who do not dissipate, testify that when all garments are discarded, such an unaccustomed breath of cleanness and sincerity blows through the mind as was never known before. Brassieres and loin cloths pique curiosity and shout out, "There is something wicked here." Social nudism makes the whole body as impersonal as the face. The smallest bit of clothing accentuates and exploits the body. It is taking the general public a long time to understand what should be clear to all. Nudism recognizes the use of clothes for business and social purposes and for climatic protection. Nudists recommend nudity only in the proper place at the proper time.

Of the hundreds of press notices and editorials secured by the International Nudist Conference in its opposition to the proposed legislation against nudism in New York State, none perhaps was more gratifying than the following editorial from the New York *Herald-Tribune* of Saturday,

January 5, 1935. *Time*, in quoting part of this editorial spoke of it as "a notably bold editorial in the lay press."

THE DISCIPLINE OF THE FLESH

It was recently found in the courts of this state, as the result of an appeal from an adverse decision, that the habit which some otherwise worthy and decorous men and women have of running around naked within restricted and carefully screened premises was *not indecent* and was not, therefore, illegal. This brought the nudists of the State of New York definitely within the law. Almost at once the Legion of Decency, with Mr. Alfred E. Smith in the chair, launched a movement to put them outside the law again—to sponsor legislation in Albany in which the present well-known rites and diversions of the nudists would be pronounced subversive of public morals. This movement has in turn drawn from the Rev. Dr. Ilsley Boone of the International Nudist Conference a very able defense of the morals of his cult and a very shrewd dig at former Governor Smith, whom he reminds of his much quoted anti-prohibition dictum that people cannot be made moral by legislation. Dr. Boone no more concedes, of course, that high-minded nudism is immoral than Mr. Smith would admit that a temperate use of alcohol is immoral.

In this controversy it is much easier to go part way with Dr. Boone than it is to go anywhere at all with the Legion of Decency. The average conventional citizen, who concedes the propriety of the bathing suit's progressive shrinkages, as usage conventionalizes them, naturally thinks that there must be something wrong with men and women who cannot get sufficient sun, air and freedom of movement in these skimpy creations. And perhaps there is, but no one who has studied the mentality of the confirmed nudist will concede that the quirk in it is psychopathic, in the accepted sense of the word. The exhibitionists among these folk who would go through the world as they came into it are a trifling minority. The confirmed rebels against the conventions, whose joy is in radical departures from the ways of the many, probably make up a slightly larger minority. But all testimony goes to show that the great majority of these latter-day Edenites take their antics in the altogether as solemnly, if not as sadly, as the English are supposed to take their pleasures. All non-nudists reporters on the life at a nudist camp find it insufferably dull. They are diverted by nothing about it so much as the quiet but firm sway of the proprieties over groups that affect to live like nymphs and fauns.

The truth of the matter seems to be that the average nudist is a puritan whose interest in the movement is aroused, and who gets his spiritual uplift from it because of the opportunity that a supposedly difficult situation affords him of proving to himself his perfect

discipline of the flesh. He notes with triumph that he experiences no wicked reactions to visions that are allegedly wicked. This indulgence may seem thoroughly absurd; *but when the Legion of Decency sets out to have it pronounced immoral, is it not simply compounding an absurdity?*

If, as *Time* said, the *Herald-Tribune* spoke boldly, we need more bold speaking on this subject.¹ The editorial writer is thinking but has not given much study to the therapeutical, sociological, psychiatric and psychological aspects of nudism. All students of therapeutics know that even the most modern bathing suits cover the very parts of the body which most need the sun but segregated sun bathing would take care of that. Social nudism is defended on social and psychological grounds which have been presented fully in this book and which the editor should study. Furthermore, the advocate of social nudism does not get his spiritual uplift from nudism because of any opportunity that the situation affords him of proving to himself his perfect discipline of the flesh. He simply rebels against the damaging superstition of the obscenity of the human body which he knows has done more harm than any

other myth in human history. He knows that shock at sight of the human body exists no longer after the mystery and taboo are lifted. It is true that he learns that he experiences no wicked reactions to visions that are allegedly wicked, to use the expression of the editorial writer. He learns this when he first disrobes in a mixed group. There is certainly no continued triumph in such an experience which soon becomes normal and void of thrill. His continued interest is and must be based on something more enduring than that which the writer has in mind. His interest continues because he finds a joyful freedom in being emancipated from a blind superstition. He enjoys nudism in the proper place at the proper time.

Alfred E. Smith and six other members of New York Archdiocese's Council had their bill introduced. On January 7, 1935, Senator McCall introduced the bill which became Senate Bill 128. The following day Assemblyman Dooling introduced the bill which became Assembly Bill 109. Rev. Henry S. Huntington, Editor-in-Chief of *The Nudist*, has given a very interesting report of the open hearing before the Committee under the caption, "The I.N.C. Victory at Albany."

The bill to outlaw nudism which was introduced into the New York Legislature in January under the sponsorship of the New York City section of the Legion of Decency was a possible threat to nudism throughout the country; for, if the Legion succeeded in passing the bill in the Empire State, it would unquestionably attempt to do the same in every state where it has influence. Moreover New York's example in legislation has great weight with other states.

The leaders of the nudist clubs of New York City and state gathered in weekly war council during the critical days of January. Two Rochester men left their city at three o'clock in the morning and drove all day to attend the first meeting of this group. A good many others showed the same spirit. The first need was to raise money for the necessary attorney fees, hearing expenses, and publicity. The I.N.C. appealed to every accredited nudist club in the country and to co-operative members and registrants, and the Legal Defense Fund for the Albany fight was set up. When life and death hang in the balance it is time to give.

Mr. Boone prepared a five-thousand word pamphlet, *Social Nudism and the Moral Code*, giving a brief history of the development of modern nudism, the facts about the New York situation, quotations from scientists on the value of nudism and from newspapers and publications endorsing it. A copy of this pamphlet went to every member of the two Codes Committees of the New York legislative chambers, to all the other

members of the legislature, and to all the editors of New York State papers.

It was recognized that this fight involved more than nudism. It involved the whole right to experiment on social lines. The law proposed to step into the sanctity of the home and forbid parents to bring up their children according to their own ideals. It proposed to impose the opinions of one group of the population on all others. The law, as drawn, would have prevented the experiment which two nursery schools in the state are already undertaking to let the children become familiar with the sight of the body of both sexes by allowing them to take off their clothes in warm weather if they so desire. If the legislature can forbid one kind of experiment, may it not forbid another?

Three of the I.N.C. members promptly called upon Governor Smith, chairman of the Advisory Committee of the Legion of Decency, which had proposed the law. It was a very pleasant call. The former governor and the nudist leaders understood one another much better at the end of the interesting half hour than they did at the beginning. A central point of difference in their views was in regard to the instinctiveness of modesty, or rather, the sense of shame connected with the body. Psychologists in general claim that children do not naturally possess any feeling of this sort but have to be taught it. Opponents of nudism commonly believe that it is instinctive, at least, says Governor Smith, among Christians and Jews!

As a result of this conference, the I.N.C. directed an open letter containing ten questions to Governor Smith. Despite the governor's former statement that he always enjoyed answering questions put him by responsible persons, especially questions intended to embarrass him, Mr. Smith never answered these queries. Reference was made to them in numerous quarters and the *Chicago Tribune* and the *New York Daily News* printed them more or less completely. When one of the newspapers asked the Governor's secretary whether he had answered the questions, she replied that he had not had time to read them! Whether or not he ever found the time, rumor at least reported that he tried to get the committee in charge of the bill to steal a march on the nudists and suddenly report it out of committee and pass it before the opposition had an opportunity to have its say. Fortunately the I.N.C. representative was in close touch with Albany, the committees promised a hearing on the bill, and no surprise move went through. However, it was said that word came from Tammany Hall that the bill was to be passed.

In the meanwhile Charles Francis Potter of the First Humanist Society of New York devoted a Sunday morning meeting to a discussion of the nudist bill. "The Bible," said Dr. Potter, "gives a good deal of support to nudism. It reports that David in his ecstasy over the return of the ark to Jerusalem threw off his clothes and became a nudist. The only person who ob-

jected was his wife, Michal. The Lord punished her with childlessness. So evidently the Lord was on the side of the nudists!

“Moreover, the ‘first Pope’ was a nudist. We read that when Peter and his companions were fishing and he saw Jesus on the shore, he started to go to him, and first cast his fisher’s cloak around him, for he was naked.”

The hearing on the bill was set for Tuesday, February 5. On the preceding Sunday the following statement, signed by eminent religious leaders, was given to the press:

We are opposed to indecent exposure of the body for any lewd purpose or for theatrical or commercial exploitation. At the same time we recognize that honest and sincere people may consider familiarity with the appearance of the whole person an aid in the healthy and natural rearing of children and in sex education. To label any practice contrary to law without considering the purpose of the practice is altogether out of place.

We object to every effort through legal enactment to coerce the public in the matter of personal habits which are not antisocial in spirit and effect. With the Honorable Alfred E. Smith we “believe in liberty that means freedom to the individual to follow his own will so long as he does not harm his neighbor.”

We are likewise convinced that, in this day of rapidly changing conditions, it is a mistake unnecessarily to crystallize convention into law. The present law is ample to deal with all indecent exhibitions. We are therefore opposed to the passage of Senate Bill 128 as introduced by Senator McCall January 7, 1935, and Assembly Bill 109, introduced by Assemblyman Dooling, January 8, 1935.

The statement was signed by Professor Arthur L. Swift, Jr., of Union Theological Seminary; Guy Emery Shipler, Editor of *The Churchman*, the famous old journal of the Episcopal church; Jonah B. Wise, Rabbi of the Central Synagogue; Allan Knight Chalmers, Minister of the Broadway Tabernacle Congregational Church; Roswell D. Barnes, Minister of the University Heights Presbyterian Church; John Melish, Rector of the Church of the Holy Trinity, Brooklyn; George Maychin Stockdale, minister of the Methodist Churches at Bullville and Montgomery, N. Y.; and by Ellsworth Huntington, Professor of Geography at Yale University. Later a number of younger clergymen appended their signatures. The *New York Times* printed the statement in full. Many citizens wrote personal letters to the chairmen of the Senate and Assembly committees on codes protesting against the bill. Among these was one by the President of the American Society of Painters, Sculptors and Gravers, in which he said:

An act aimed to prohibit nudism has been called to my attention. I have read the act and hereby protest most vigorously against it. Mainly because it is entirely unnecessary, and that anything immoral about such exposure is already covered by laws in existence now. Translating such an act into law will cause more viciousness than anything which may happen without it.

While I do not feel that the intention of the act was to interfere in any way with the study or the practice of professions where the exposure of the human body is necessary, such as art and medicine, it is so worded that it may be interpreted by a lot of nasty-minded snooping subordinates to give them the right to attempt interference with art schools and studios. The world is full of works of art where male and female figures are posed in the nude and in many cases together. These works are now on exhibition in such eminently respectable places as the Vatican and public museums and collections the world over. In order that such and in fact any work of art may be created, the study of the nude is essential. It has never been proved that the sight of the nude has had a demoralizing effect on the human race. Furthermore the enforcement of such a law is practically impossible, even more so than prohibition was.

May I hope that your honorable Committee will give this opinion due consideration.

Very truly yours,

LEON KROLL, *President,*
American Society Painters,
Sculptors and Gravers.

The hearing on the bill was on February 5, 1935. When Mr. Boone, representing the I.N.C., had earlier asked the Albany legislative committee chairmen for a hearing, they inquired: "How many people will attend?" "Probably sixty," Mr. Boone replied. When the hearing began on the eventful afternoon, every seat in the big committee room was taken, scores were standing and it was difficult to crowd in at the door. It was one of the biggest hearings of the season. Two hundred interested persons were present.

Chairman Quinn called for speakers in behalf of the bill. No one responded. He called again for the proponents. Silence was the only answer. "What," he exclaimed, "is there no one here who favors this law?" Sensation! Laughter!

"Well, then," continued the chairman with dignity, "we will hear from the opponents." Charles Francis Potter of the First Humanist Society spoke first. The crowd laughed with him when he asserted that the bill was so fanatical that under it a mother could not give birth to twin boys without being liable to arrest.

Dr. Potter was followed by Mrs. Morrie Ryskind,

representing the National Council on Freedom from Censorship, who commented on the respect she felt for nudists and remarked that she felt quite insulted when her superior told her that he was sending her to Albany to appear against the bill because he wanted someone in opposition who obviously was not a nudist.

Then Mr. Talman W. Van Arsdale, of the Buffalo Bysun Club, spoke briefly on the legal objections to the bill, which forbade the exposure of the person but did not define what "the person" is. Under it, said the speaker, the police might "pinch" anyone in bathing costume on the beach in summer.

Alfred W. Flynn, baptized Aloysius Patrick Flynn, representing the New York Sunbathers, was the next speaker. Like all the previous speakers, Mr. Flynn was admirable. He gave the sensation-seeking crowd the chance to laugh which it had waited for. After telling of his own recovery of health through sun bathing, he was interrupted by one of the committee who asked if it was necessary to have the body completely exposed. "Yes," said our Al, "if part of the body is covered, curiosity still persists. But when everything is uncovered curiosity is completely satisfied in ten minutes. You'd be surprised how quick you lose your curiosity in a nudist camp," he finished with conviction. The crowd roared. Chairman Quinn rapped for order. "The fate of this law means a great deal to a large number of people of this state," he said. "This is not the place for morbid curiosity seekers. If there

is any more interruption I shall have to clear the room." Laughter of the sensational sort came to an end.

After Mr. Flynn, Eve Morris spoke briefly of the objections to the bill from the artists' point of view. Then Mr. Boone concluded the hearing with a fine statement on the development of nudism and the objections to the proposed law. Beginning with the medical argument for nudism, Mr. Boone cited the work of Auguste Rollier at Leysin, Switzerland, and the discovery of Vitamin D, which showed the human body's need for sunlight and ultraviolet radiation. He followed this with an argument for nudism based on the conduct of the nudists. Two arrests of nudist groups have taken place in New York, that of Burke and his companions in 1934 and that of the American League for Physical Culture in December, 1931. In both cases the arresting officers distinctly testified that the conduct of the nudists was beyond reproach and had nothing obscene or suggestive about it. Mr. Boone concluded with what may be termed the corroborative argument, the opposition of non-nudists to the proposed law. In this connection he used with excellent effect the statement of the clergy and others already cited, and a letter from the teacher of one of the two nursery schools in the state which have already adopted the plan of allowing the children to take off their clothes when they want to.

Before the hearing adjourned, the chairman an-

nounced that Charles T. Tobin, representing the National Catholic Welfare Council, wanted to go on record in favor of the bill. It was the only suggestion that anyone believed in this new prohibition.

So the hearing adjourned.

What had it accomplished? One incident will illustrate the answer. On the way out of the room one of the nudists spoke to a spare, gray-mustached gentleman. "You look familiar to me. I think I have known you in the past." The two exchanged names. Twenty years before they had corresponded and conferred. The gray gentleman represented a famous reform society. "I came here," he said, "prepared to support this bill, but what I heard here has been an eye-opener. So I am saying nothing." Out of this chance meeting a friendship speedily developed between this man and a group of the nudists.

Wednesday evening, the day after the hearing, the Albany news-broadcast announced that the Senate Committee had consulted ex-Governor Smith about the bill. Mr. Smith at the time was in Florida, getting his supply of winter sunshine, and, said the announcer, was reconciled, that, in view of the small public support that the bill had received, it should die in committee.

Thursday morning the New York *Herald-Tribune* printed an editorial and that evening the *World-Telegram* came out with a cartoon from the hand of Rollin Kirby. All indications are that New York will

remain content with the present law against obscene exposure and in the realm of clothing will make no attempt to break down the great American and human principle of freedom for the individual. Developments thus far show openness of mind and fair dealing on the part of the legislature. The press of New York and of the whole country has been notably fair. We all may take courage.

We present herewith three items, the first being a brief of the speech delivered at Albany, at the hearing on the anti-nudist bill, by Dr. Charles Francis Potter, leader of the First Humanist Society of New York; the second, a statement against the proposed bill made by Mrs. Morrie Ryskind, speaking for the National Council on Freedom from Censorship; and the third, an editorial from the New York *Herald Tribune*, which fairly represents the press attitude toward anti-nudist legislation expressed immediately after the Albany hearing, Feb. 5, 1935.

THE ANTI-NUDIST BILL IS LUDICROUS

Personally I am not a nudist but I am against the bill because it seems to me ludicrous, socially undesirable, and an infringement of that human freedom which Americans traditionally hold dear.

Under the laws of New York State, nudism is not an offense unless lewd or lascivious conduct

can be proved. The bill under discussion today (Senate No. 128; Assembly 109) proposes among other things to make nudism itself a misdemeanor, irrespective of any lewd or lascivious conduct, and regardless of the intent or motive. This is a serious step for any legislative body to take, as any student of sociology knows. This bill belongs to the same general class of freak legislation as anti-evolution bills; and the New York Legislature if it passes this bill, will make itself ridiculous, and go down in history along with the Tennessee legislature of ten years ago.

Outlawing nudism as proposed in this bill, makes it illegal to be natural. It makes morality depend upon clothing. It assumes that a person cannot be moral if he is naked. Why, gentlemen, this bill is so fanatical, so determined to keep us all covered up all the time, that its provisions make it a misdemeanor for a mother to nurse her twin boy babies if the babies happen to have nothing on but their diapers—in fact she couldn't even give birth to them without being liable to arrest.

The bill, however, is evidently aimed at the nudists, many of whom I have met personally. I have found them high-minded, very moral, and of the noblest motives. They do not intrude themselves upon public notice, but seek retirement to work out a social experiment in the cultivation of

body and mind in the open air and sunshine or in the sanctity of their own homes. I contend that they have a right so to do and that those who would seek to prevent them by prohibitory legislation are forgetting the American tradition of liberty.

CHARLES FRANCIS POTTER.

EVEN NON-NUDIST BELIEVE IN LIBERTY

The National Council on Freedom from Censorship, which I represent, is composed of some fifty writers, editors, lawyers, and liberals interested in opposing all forms of bureaucratic censorship of the movies, of the radio, the stage and literature. We defend serious artistic expression and the right of the individual to decide for himself what is or is not obscene. We do not defend nude exhibitions for commercial profit nor do we defend obscenity, but we do feel that experience has shown that the best judges of obscenity are courts and juries rather than official, politically appointed censors.

The Council at its last meeting voted unanimously to oppose this legislation. Among those who expressed their opinion at that time were Elmer Rice, Pulitzer Prize Playwright; Mary Ware Dennett, social worker and author; Morris L. Ernst; Alexander Lindey; Harry Weinberger;

Barrett H. Clark, playwright and publisher; B. W. Huebsch, publisher; Hatcher Hughes, professor of the drama, Columbia University, and Roger N. Baldwin, director of the American Civil Liberties Union.

We oppose this law as a dangerous invasion of the privacy of the home by the state and as a direct and unwise attack on the practice of serious nudism. Nudism is recognized abroad as a serious, if somewhat unusual, way of life with a valid philosophy and theory of physical culture. Yet this law would prohibit its practice even in private parks or sanitariums far removed from the public view, where no outsider could possibly be offended.

We submit that this blanket ban is an encroachment on personal freedom and personal privacy which is not in the public interest. We recommend that the committee report unfavorably on this bill.

MRS. MORRIE RYSKIND.

A SOLEMNLY SILLY BILL

To the overwhelming majority of the people of this state the practice of nudism, in fenced woodland reservations or private gymnasiums, has no moral significance whatever. It is simply

a convenient butt for amiable jests and silly speculations, such as the nudist's intimacy with mosquitoes, bees and poison ivy, the esthetic merits or demerits of the show as such, that a nudist camp provides, and so forth. Those very few persons who take it solemnly are perhaps pretty equally divided between the nudists themselves, who find the shedding of the inhibitions that go with raiment solemnly uplifting, and those who find the thought of such unconventional behavior solemnly revolting. The McCall-Dooling bill to outlaw nudism in the State of New York which the Legislature's Committee on Codes gave its first public review on Tuesday, embodies the sentiments of no element among the great mass of the people but this second trifling minority; and if those who spoke against it at the hearing did not succeed in making this little element more ridiculous in the sight of the committee than the nudists, that committee lacks the general public's sense of humor and its common sense as well.

At this hearing Mr. Charles Francis Potter of the Humanist Society had great sport with a proposed act of the legislature that would make it impossible for a mother to bear or nurse twins without breaking the law. But the statement that went to the pernicious root of all such law making was that in which the opinion was expressed

that "in this day of rapidly changing conditions it is a mistake unnecessarily to crystallize convention into law." It is not only a mistake in this day but it has been a mistake in every generation from the beginning of law-making; and it will always be a foolish mistake to put the proprieties of the hour, often as short lived as the styles in hats, on the statute books.

Yet in every age there are little groups of persons, ready enough to laugh at yesterday's blue laws, who think that the lawmaker is under obligation to them to impose upon all the rest of humanity those restrictions on personal liberty which they impose upon themselves for reasons that are vague to them and incomprehensible to others. Mayor LaGuardia expressed his impatience with this kind of legislation very forcefully last year when the Brooklyn police thought they were in need of a close definition of improper exposure on the beaches. Mr. Alfred E. Smith, who is now supposed to support this anti-nudist bill, gave this tendency in law-making a devastating blow when he declared some years ago that "you can't make people moral by legislation." This bill is, in short, "immaterial, incompetent and irrelevant," as they say so often in Flemington, in so far as New York State's public morals are concerned.

New York *Herald-Tribune*.

Rev. Ilsley Boone, in his pamphlet, *Social Nudism And The Moral Code*, said regarding this proposed anti-nudist legislation:

ATTEMPTS AT ANTI-NUDIST LEGISLATION

It is not surprising that ill-informed members of some state legislatures, entirely sincere but wholly ignorant of the subject matter, have thought they were doing a public service in the introduction of measures designed to forbid the practice of nudism regardless of the character of the conduct and behavior of the group. Let it be here stated unequivocally and without reservation of any sort, that the nudist movement in America as represented in the International Nudist Conference is unalterably opposed to "lewd, lascivious, obscene, immoral and indecent conduct" and believes that existing statutes are equal to dealing with all such cases wherever they may occur—provided the laws are adequately enforced. But the proposed measures against nudism proceed on the assumption that nakedness is itself obscene and that what is not immoral in itself can be made immoral by legislative fiat.

Four attempts have been made in the 1935 Spring legislative sessions to stamp nudism as a crime or a misdemeanor and to make punishment for the offense range anywhere from a \$100.00 fine to imprisonment for *life*—the latter provision appeared in Oklahoma

where the penalty for *murder* is imprisonment for *twenty years*! These attempts were made in New York, Michigan, Oklahoma and Alabama. Since the wording of the bill before the New York and Michigan legislatures was identical in both cases, having been formulated by a committee of the Catholic Legion of Decency, and since the arguments against the measure indicate lines of possible attack on other bills that may be proposed, we reproduce herewith the N. Y.-Mich. measure and the opposing arguments:

AN ACT

To amend the penal law, in relation to indecent exposures of person

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is hereby amended by adding thereto a new section, to be section eleven hundred and forty-b, to read as follows:

§ 1140-b. A person who in any place wilfully exposes his person, or the private parts thereof, in the presence of two or more persons of the opposite sex whose persons, or the private parts thereof, are similarly exposed, or who aids or abets any such act, or who procures another so to expose his person, or the private parts thereof, or who as owner, manager, lessee, director, promoter or agent, or in any other capacity, hires, leases

or permits the land, building or premises of which he is the owner, lessee or tenant, or over which he has control, to be used for any such purposes, is guilty of a misdemeanor.

§ 2. This act shall take effect immediately.

ARGUMENTS AGAINST SUCH PROPOSALS

The present provisions of the Penal Code are sufficient to treat and properly cope with the problems of indecent exposure, public exhibitionism or commercial nakedness. The new measures as proposed are unnecessary, undesirable, ineffective and inimicable to public welfare. They fail to make the all-important distinction between immoral, lewd, indecent exposure and social nudism as a healthful and moral practice.

OTHER APPARENT DEFECTS IN THE NEW YORK-MICHIGAN PROPOSALS:

(1) The proposed Bill seeks to make immoral by legislation that which is not immoral in fact.

(2) Prohibitory legislation is objectionable since it is impossible to legislate morality into human beings, and any attempt to do so is very likely to increase the practice of that which it tries to prohibit.

(3) It violates the inalienable right of the sanctity of the home.

(4) The proposed legislation does not sufficiently

define the term "exposes his person." It does not state whether the exposure of the person means the entire body or only portions thereof.

(5) The Bill does not require immoral intent in the exposure. Consequently it subjects all persons whose acts come within the language of the Bill to criminal prosecution, irrespective of the circumstances.

(6) The Bill does not prescribe that the acts contemplated must be committed in places of public assemblage and subjects persons committing any of the acts described in the Bill, to criminal prosecution, even though such acts are committed within the family circle and in the privacy of the home or in the seclusion of private property.

THE PROPOSED LEGISLATION, IF ENACTED, PERMITS OF A NUMBER OF STRANGE POSSIBILITIES:

(a) Art model groups, posing in classrooms for student groups, become subject to prosecution.

(b) Actors and actresses, participating in artistic display or while disrobing behind scenes for quick changes, may be subject to the Bill's provisions.

(c) The language of the Bill charges the landlord or owner of any premises with the responsibility of guarding the conduct and actions of the tenants in the building. The owner or agent of the premises is criminally liable if he "permits the land, building or premises . . . to be used for any such purposes."

(d) Any group of nude female persons may be introduced in the presence of male persons, but not violate the proposed statute. The reverse, of course, is true of male persons.

(e) Where a male person is introduced in the presence of two female persons, all of whom are nude, he is guilty of a crime but the two female persons are not.

(f) A female person may be introduced in the presence of two male persons, all of whom are nude, the two male persons are not guilty but the female person is.

(g) One man may expose his person in the presence of a woman similarly exposed, with indecent intent, but neither of them will be deemed guilty under this legislation.

(h) If, however, a third nude person joins this group of two then if that third person is a female the male member of the group may be charged with a crime. If, however, that third person is a male, then the female member may be charged with a crime.

(i) A mother or nurse exposed, bathing children of different sexes, would violate the law.

Morality, in any phase of life, has never been attained by laws of a prohibitory nature or by repression and restriction. The practice of social nudism, as sponsored in this country by the International Nudist Conference, is capable of becoming a substantial educational factor in developing clean moral thinking

among the people. The International Nudist Conference is rendering a distinct service in that it is controlling and keeping the practice of social nudism within clear-cut confines. It has been instrumental in stamping out pseudo-nudism as conducted by individuals who were interested not in nudism as such but purely in public exhibitions of nakedness for commercial gain.

A more appropriate treatment of the entire situation would be the enactment of legislation which would encourage and properly circumscribe the practice of social nudism, as it exists and is promulgated today in the nudist groups affiliated with the International Nudist Conference.

The International Nudist Conference stands for improvement in public morals and it is in accord with the objectives of the Legion of Decency. The only difference is in the methods. One believes that further suppression and prohibition will attain the ends desired. History proves that such tactics arouse a desire for or a morbid interest in that which is banned, prohibited or shrouded in mystery. The International Nudist Conference feels that through proper education and a wholesome understanding the desired ends may be achieved successfully.

In the states of Oklahoma and Alabama the proposed statutes are more sweeping and would have to be attacked with somewhat different arguments than some of those used above. Any "life imprisonment"

provision is unconstitutional since "the punishment must fit the crime." Any attempt to deprive persons of "liberty and happiness" which is obtained and enjoyed without injury to other persons, would be a fundamental violation of the Bill of Rights.

OTHER METHODS OF MEETING ANTI-NUDIST MEASURES

It is often difficult for legislators to abandon an introduced measure. In such cases, work for amendments and changes in the proposed bill. As an example, it was recommended that the New York-Michigan measure be amended as follows: "A person who in any place" be made to read, "A person who in any *public* place." This single change would have satisfied the nudists, though it would not have satisfied some of the other objectors. "In any other capacity, hires, leases," be made to read, "In any other capacity, *knowingly* hires, leases." Without the introduction of the word "knowingly," the scope of those who might fall under the law would include many obviously innocent persons such as real estate agents, a pool attendant, or absentee owners of property. Finally, in the interest of modern medical research, any such measure should carry the provision: "Nothing contained herein shall be held to forbid the establishment and conduct of a sanitarium, health center, clinic, or any other institution designed primarily for the advancement of mental

and physical hygiene conducted under medical supervision or with the approval of the local health authorities and in accordance with approved methods of medical research and practice." Such an amendment to the New York measure was sponsored by the representative of the American Medical Association at Albany and would doubtless have the support of medical men before any state legislature.

After the McCall-Dooling bill apparently had been laughed to death at the public hearing, killed by its own nonsensical provisions and by the failure of its advocates to appear in its behalf, different forces came into the picture. Alfred E. Smith who had been in Florida at the time the bill had been introduced and who had been reported as reconciled, in view of the lack of public support, to have the bill die in committee, was not the good sport that people thought he had proven himself to be. He hurried back to New York, determined to save his political face. He is reported to have told the Democrats in the legislature that the anti-nudist bill had to be reported out and passed. The bill was reintroduced as originally written, omitting the word "person" as the only change and leaving exposure of the "private

parts" as the misdemeanor. The skids were amply greased. The bill passed the Senate twenty-seven to ten, and then passed the Assembly ninety-seven to twenty-six. After the newspapers had carried the story of the first defeat in committee, this was an amazing story but the bill was steam-rolled through the legislature as a political measure and it presented the Roman Catholic Church at its worst. Romanism is fast losing on the birth control and is fighting a desperate fight in this issue. Pope Pius XI, laboring under a misapprehension as to the character of social nudism, denounced "the cult of nudity." When the long arm of the Catholic Church reached out from Rome, Alfred E. Smith turned defeat into victory.

The reaction of the metropolitan press to what was called the "legislative opera bouffe" was quick. The *World-Telegram* lampooned the passage of the bill. The New York *Herald-Tribune* called on Governor Lehman to veto the bill. Hundreds of letters poured into the executive mansion urging a veto but the Governor received his orders from Rome to "Goose-step" with the Catholics and the Jewish Governor "goose-stepped."

In his memorandum he said,

Irrespective of the merits of the sincere practice of nudism, the most flagrant evil at which this bill is directed is the professional exploitation of nudism for profit. There can be no justification for some of the so-called nudist gymnasiums or colonies where the general public is admitted for a fee.

There appears to be no statute at present on our books sufficiently broad to prevent this commercialized exploitation for profit. A recent decision by the Court of Appeals has definitely determined that such practice cannot be prevented by existing law.

Failure to enact such a statute as this would lead to widespread use of exhibitionism for financial gain which our present laws would be ineffective to prevent. I am therefore signing the bill.

Governor Lehman wilfully and deliberately misrepresented the facts. He signed the bill on the ground that nudists admit the general public to their clubs and camps yet he knew very well that nudists do no such thing. He knew well enough that "exhibitionism" is exploited at burlesque houses and at night clubs and that the McCall-Dooling Bill does not touch such institutions for the ridiculous bill prohibits a person of one sex going nude in the presence of two or more of the opposite sex who are also nude. Nudity can be

commercially exploited in burlesque houses and night clubs but the movement of people who are interested in social nudism as a great educational and social force which will destroy the harmful superstition of the obscenity of the human body are told that social nudism practiced in private at home or in the camps where only people of like mind are admitted, is a violation of New York Law.

This law is a farce. It can be obeyed in a variety of ways. All may go nude as heretofore provided all the men or all the women wear blinders. Those without blinders may lead the others around. Or the men may go nude in the morning and the women in the afternoon. Or the men may wear fig leaves in the forenoon and the women wear them in the afternoon. A little boy and his two older sisters might go around the house or go in swimming in the nude. The girls would be perfectly good citizens but the little boy would be violating the law. This law is indeed a farce.

How could an intelligent man like Governor Lehman ignore public opinion, refuse to grant a hearing, and sign such a farsical bill filled with nonsensical provisions without a single argument produced in its behalf? What shall we say for

a man who did what Governor Lehman did? Was the Governor influenced by the previous court decisions in New York? When he signed the bill, he stated, as we have seen, that the bill was designed to stop such exhibitionism as "admitting the general public for a fee." This reference was to the minority opinion rendered at the trial of Vincent Burke who had been acquitted by the Appellate Division of the Supreme Court, and, upon appeal of the prosecutor, had been acquitted again by the Court of Appeals. In the former court, four out of five Supreme Court Judges, and in the court of highest resort, four out of six Judges, in all eight out of eleven of the highest Judges of the state, upon the same evidence, had declared that the admission of a policeman and a policewoman who had surreptitiously gained entrance to the nudist gymnasium upon pretense that they were legitimate prospective members, could not by any stretch of the imagination be construed as "the admission of the general public for a fee." Only three judges dissented and it was the far-stretched reasoning of this minority that was cited by Governor Lehman as his sole reason for signing the bill. Clearly his reason was

not intellectual but purely political. This was a terrible blow to many people who had thought Governor Lehman was sincere but uninformed. Hundreds of people urged the Governor to hold a hearing, thinking that if he would do so, he would not sign so unpopular a measure. It was not information that the Governor needed, however, but the inclination to be fair and reasonable.

An editorial in the October, 1935 issue of *The Nudist* pointed out clearly not only the unfairness and ridiculousness of the McCall bill but also explained why the minority opinions were quoted so widely in law journals, other magazines and the daily press.²

THE UNITED STATES LAW REVIEW LOOKS AT NUDISM IN NEW YORK

In the July issue of the United States Law Review several pages are devoted to a survey of the New York statutes supposed to bear upon the right of groups of individuals, on private property and away from public view, to live a clothesless life if they care to do so. Unfortunately the reviewer of the recent nudist trials in New York and of the McCall anti-nudist law more recently passed, not only falls into the same errors so freely repeated by the press but adds a few new ones

on his own account. In the interest of simple fairness and accuracy we give attention to this misrepresentation since the *United States Law Review* is received throughout the country as an authoritative legal source book and compend.

First, then, we observe the original errors of this reviewer. Speaking of the Burke case, he says, "There were no limitations imposed upon admission." This positively was not so. Every person present had to be a known nudist or accompanied by a known nudist or otherwise properly vouched for as a bona-fide prospective nudist. The public was not invited, would not have been welcome, and could not have gained admission. Again, the reviewer asserts that the meeting "had been announced by circulars." It had not. It had been announced by personally addressed letters sent out by mail, only to known nudists whose names were on Mr. Burke's mailing list. One of these letters went to a disgruntled newspaperman who had been refused any further interviews by Mr. Burke. He turned the letter over to a policeman with the suggestion that a raid would make good news. This statement of the facts does not justify the phrase "had been announced by circulars." Again, in a paragraph describing Officer Barr's admission into the meeting place by Burke, the picture presented is wholly unfair by reason not of the statements made but of the omissions. "Burke, at a desk in front of the premises." One would almost think he was on the sidewalk by the entrance.

He was in the gymnasium office at the foot of the stairs leading into the gym. "The officer inquired whether the classes were about to begin and what the fee was for himself and his companion. He was told classes were about to begin and the fee would be one dollar for both." Not a word is said to the effect that the letter above referred to stated that it must be presented as a voucher for gaining admission and that Officer Barr in plain clothes did so present his letter and stated to Mr. Burke that it was his and his companion's intention to become members of the group. The admission of the policeman and policewoman was not the simple matter presented by the Law Review, but was definitely a surreptitious and deceiving procedure, circumventing the specific steps taken by Mr. Burke to exclude the general public. Any picture of the Burke case which omits these factors simply is not true to the evidence cited at the trial. Eight out of eleven justices held that the admission of the police officers was not tantamount to admitting the public.

If these items of evidence had been fairly faced in the two appeals, there would have been no dissenting opinions. It must be remembered that in both appeals the majority opinion was briefly expressed as "reversing" and "concurring." No lengthy opinion was expressed. Eight out of eleven of the highest judiciaries of the state took this position. Only the dissenting opinions of three out of eleven justices were written out *in extenso* and these naturally furnished the only

quotable material of the decision and hence were given wide publicity in the press of the country. So much more attention was paid to these *minority opinions* than was given to the *majority decisions* that even Governor Lehman, in signing the McCall bill, seized upon them and quoted their adverse judgments and their misconstruction of the evidence in defense of his action. But the United States Law Review overlooks, or at least omits, all these pertinent factors, omissions which we feel should not have prevailed in any fair summation of the New York situation.

The Review, however, does point out some of the infelicities of the legislation and concludes with a ray of hope for the social sunbathers when it says that though the new law may be honored in the magistrate's courts it would probably, in a fairly presented test case, be held invalid in the higher courts on appeal. "That the new statute will penalize many offenders or even discourage the practice of nudism, is open to grave doubt," is its final opinion.

In view of the reason assigned by the Governor for his signing the bill, many New York advocates of social nudism hold that the law does not jeopardize the proper practice of social nudism by sincere and otherwise law abiding citizens but the letter of the law is one thing and the Governor's statement about the purpose of the law is another.

Probably the best way to get rid of an absurd and unpopular law is to obey it to the letter. The United States Law Review was right in saying that, in a fairly presented test case, the McCall bill would probably be held invalid in the higher courts on appeal. One is compelled to counsel full observance of the law at all times and to caution advocates of social nudism against aiding in any way its violation yet *The United States Law Review* is no doubt correct in saying, "That the new statute will penalize many offenders or even discourage the practice of nudism, is open to grave doubt." Already there are indications that advocates of social nudism as a great movement for social progress are taking the position that they are within their constitutional rights in ignoring the McCall bill enactment. The October, 1935 issue of *The Nudist* reported a Fourth of July violation in the following editorial comment:

ARE WE RESPECTABLE CRIMINALS?

Now that it is possible in some areas of "The Land of the Free" for perfectly self-respecting and wholesome individuals who rejoice in the freedom of natural life outdoors and who in the privacy of their own grounds exercise that freedom, to be branded as

“criminals” under the anti-nudist law, it becomes of increasing interest to us to enquire, “Wherein lies criminality.” On the Fourth of July, last, a group of as representative men, women and children as one might wish to find, gathered on a private estate on the shores of one of the finest summer resort lakes in the state of New York. Reviewing their rights as set forth in our Constitutional guarantees to life, liberty and happiness, they concluded that they were exercising only the enjoyment of those guarantees when they dispensed with their clothing, played games, frolicked about, sun-bathed, dove and swam to heart’s content, lunched, chatted and finally called it a day—a picnic that will not soon be forgotten by any one of the score who were privileged to be present. Yet what these people did was in direct violation of the recently enacted New York statute which outlaws nudism not for a hundred or a thousand couples, each couple practicing separately—mind you, here is nothing against men and women consorting naked together in the outdoors provided no other nude persons are around, nothing against nakedness *per se*, apparently the rightness of these things is conceded and taken for granted—but which outlaws more than one couple of nudists at the same time and place. It is not at all the *act* which is criminal, but purely and solely the fact as to whether any other couple of nudists happens to be present. Problem: When does a couple of innocents become a couple of criminals? Not by reason of any change

whatsoever in *their* acts or doings, but solely by the presence of other like-minded innocents. Again a problem: "When does one criminal plus one criminal make four criminals? Who knows the answer?" "Yes, Alfred, you may tell us." "When three nudists of different sexes are joined by another nudist so as to make two couples." "Explain that, will you, Alfred, so that all the rest may understand." "Well, you see in that ere decency bill which I, er—which they passed up at Albany, if a man and two gals go in for sun-bathin' together with no clothes on, only the man is guilty, you see; only one criminal. The gals is still innocent. But soon as another fellow comes along and joins 'em, he is a criminal too, like the first fellow and *now* both the gals is criminals, too! Ha! ha! ha! That law puts one over on 'em, now don't it? Yes, sir, one criminal plus one criminal makes four criminals, sure enough. Say, that law beats the arithmetic, don't it?"

If any self-respecting law-maker can be proud of such a piece of legislation, his mental processes are beyond our comprehension. Under the circumstances it is quite apparent that already the statute is making some people respectable criminals. It is, however, the policy of this publication at all times to counsel full observance of the law and in no way to aid or abet its violation.

The Michigan bill was identical to the New York bill which has been discussed very fully so

this will be mentioned briefly. The same arguments were advanced for and against the proposed legislation. Early in 1935 newspapers in Michigan announced that Representative Louis James Schneider of Detroit was to introduce a bill into the House of Representatives amending Act 328 of the Public Acts of 1931 to make the practice of social nudism a misdemeanor. The bill was the New York bill without the change of a dot or comma. Bishop Michael James Gallagher seemed to be sponsoring this New York Catholic Legion of Decency bill.

Later Mr. Schneider stepped out of the picture. The bill was introduced as House Bill #136 by Representative Chester B. Fitzgerald, Knights of Columbus member from Detroit. I talked with Mr. Fitzgerald on the phone and made an appointment to go to his home. He said he knew of no bill in New York. No one had asked him to introduce the bill. He had become interested in the Fred Ring case in 1933 and wrote this bill to stop the practice of nudism in Michigan. This statement was made in the hearing of my wife and son who went with me. It seemed incredible, but I had

not read the bill at that time and did not know it was the New York bill.

Through Representative James M. Wilson of Kalamazoo, Fred Ring arranged for an open hearing in the House Chamber on Thursday evening, March 14, 1935. Members of the legislature asked Mr. Ring to bring moving pictures, stereopticon pictures, photographs and anything else which would help to make a good show. Newspaper publicity was good. About two hundred appeared. No pictures were presented. There was no sensational show. Four spoke against the bill. In order of appearance these were S. Owen Livingston of Grand Rapids; the writer, and Clyde Terns, both at that time of Detroit; and Russell B. Abbott of Cleveland, President of the I.N.C. Several ministers were to have spoken for the bill but after hearing the four who opposed the bill, they decided to make no appeal for its passage. No one, not even Representative Fitzgerald, spoke for the bill. By unanimous vote of the Judiciary Committee, the bill was not reported out of the committee. People heard much to challenge their thinking. Instead of being entertained by such en-

tainment as the papers had led people to expect, the legislators and the public heard arguments which were convincing and overwhelming. Comment after the hearing showed that sentiment was almost unanimous against the bill.

The most recent persecution of advocates of social nudism was the Denver raid and trial of 1935. The police of Denver were moved to raid the home of one of the members of the Mile High Club. The incident was attended with a good deal of sensationalism, but the court testimony and the facts were all definitely to the credit of the nudists. It is now possible to present the full account recently concluded. John L. Garrison, leader of the group, reported his experience in *The Nudist* of March, 1936.

It is known to many persons that the police raided a gathering of Denver nudists in February, 1935. Those of us who went through that raid endeavored not to have much said about it while the situation was sensational, but now that the whole incident has somewhat quieted down we feel that a few statements of fact concerning the matter might not be out of place.

Mile High Health Club throughout the winter of 1934-1935 held regular weekly gymnasium meetings. We had talked with certain public officials as to these

meetings, and had no inkling that there was objection on the part of the authorities. For the month of February we shortened our gym schedule and arranged for several gatherings of small groups of our members in various homes, after which we planned to close our city program entirely and go to camp. It was one of these small group meetings in our home that was raided.

About 9:30 o'clock there came a rap on the door. A young man, one of our members had an early evening appointment at the Y.M.C.A., after which he was to come to our gathering. Supposing it was he, I opened the door.

Behold! A whole porchful of policemen bolted right in, three abreast. To jail we must go, they ordered, and in jail we spent the night, close to thirty of us.

What a hell hole that jail was! I didn't sleep a wink and not many of the others did. And such slop as we were fed for food! But we discovered something. For a dime we could buy a nice hamburger sandwich from the same persons who fed us the free slop. Free slop, or palatable food at a price, that much education we received in jail.

At 6:30 P. M. next day we were out on bail only to discover the town seething with excitement about us. The most glaring eight-column headlines on the front page of the newspapers greeted us, and when we stepped over the threshold at home the phone was go-

ing—would it never stop? “Where have you been? We have been trying all day to get you.” “We have been in jail.” This conversation repeated itself scores of times. Persons whom I hadn’t seen for years called up to say, some of them, that while they had their doubts about nudism they were sure we would not intentionally do anything wrong.

As I went about town I had plenty of opportunity to learn how a large percentage of the people looked upon our arrest. A man prominent in the business life, who lives at the Cosmopolitan Hotel, one of the city’s finest, said, “They had no business in there.” A labor leader told me, “I associate a lot with radicals. They have the right thought. It was a violation of your constitutional rights for the police to break into your house.” Typical of a widespread sentiment is the following, taken from Lee Taylor Casey’s column in the *News*: “The nudist raid strikes me as one of the most absurd performances on the part of the Denver police in recent weeks. The nudists, if that is what they were at the moment, were not bothering anybody; they were not causing a traffic jam by performing on the streets; they were not creating a disturbance, save perhaps in the over-active brain of some busybody. Why then not let them amuse themselves as they saw fit? . . . Anyway there is to be a test case and, with the law on the side of the nudists, it begins to look like a Garrison finish.”

Charges against us were filed in two courts—the

police court and the juvenile court. That in police court had to do with the indecent exposure statute. In this trial we were each fined \$1. Many have told me they doubted whether the magistrate would have assessed that fine if the authorities had not been afraid that otherwise someone might sue the city for false arrest.

The other charge in juvenile court was more complicated. Because one family had brought their children with them to our house, charges were filed against all of us for contributing to juvenile delinquency. This matter was to have been tried before a jury in April, but because the children involved were then ill with scarlet fever it was postponed till September.

The trial itself bristled with certain dramatic elements. Twenty defendants were lined up at the bar. One lady became ill in the courtroom, and the judge declared a mistrial in her case and the case went on with nineteen. The sergeant who took my March copy of *The Nudist* brought it to the stand when he testified, and the defense saw to it that that magazine went with the jury into the jury room. It is the number, you remember, which had an account of the New York Supreme Court's ruling on the Burke case. Quite apropos material for a jury to read in the jury room. The defense attorneys did one thing which pleased me very much. They did not put a single defendant or other witness on the stand, save some high-school teachers who testified as to the school standing and the Boy

Scout standing of the two teen-age boys involved. The prosecution put the two boys on the stand, and splendid witnesses they made for the defense.

The result was an acquittal of sixteen of those and a conviction of Mrs. Garrison and myself (possibly because the gathering was in our home) and of the father of the children—not the mother although, she was just as truly at our house as was the father. The sentence we received was sixteen acquitted, three given a suspended fine. In toto, then, all the state could do with no defense witnesses to combat was to give suspended fines to three and turn sixteen loose.

What were the net results for nudism?

First, nobody in Denver knows better than the public officials that there is a body of public sentiment which will not sanction improper prosecution of the nudists. I doubt if even the police have any doubts on that score now.

Second, nudism received an advertising that it could not possibly have had without this sort of procedure. It was tough to live through, but was not without credit to the cause. The police and the newspapers put nudism on the map in Denver as it could never have been done by the nudists themselves. Should there be nudists elsewhere who might become arrested I would say to them, be friendly to the press representatives during your arrest. Some of their stuff may seem sensational and they make mistakes in statements of fact, such is

human, but if they treat you anything like they did us they will do you a world of good.

Third, let us not be afraid to show our colors. We all passed through spells of timidity and nervousness which now we regret. I wish we could look back on all our experiences and not be able to recall a single moment when we were fearful or depressed, or when we were not fully aware that we had done nothing wrong or that we need be ashamed of in any manner. I have seen in Colorado as nudists among the nudists judges from more than one bench and more than one state, college professors of both sexes and varied commonwealths, department heads of some of the biggest corporations in this country, adolescent youths of both sexes bubbling over with enthusiasm in their games in as chaste and as moral conduct as anyone ever witnessed, mothers with their tots enjoying to the full a new conception of some major meanings of life. Anything which presents that as a part of our contemporary age is something of which we as advocates and participants should justly be proud, nor have any compunctions of conscience in the presence of anyone, anywhere, because of our affiliation or identification with it.

"All that advertising for a buck!" is the way one newspaper friend expressed it to me when I met him in his office after it was all over. For that is all the penalty anyone had—\$1.00 fine plus some court costs,

bonds, and attorney fees. And it is winding up with a great improvement in nudist *esprit de corps*. The Colorado Artist Club has been organized since the raid by persons never affiliated with Mile High, and I think I can assure our fellow members of the nation that the best standards and statesmanship of the movement will not be wanting in Colorado.

IX

A GREAT SOCIAL WORKER IS PERSECUTED

In 1929 a woman of refinement, character and high ideals was charged with obscenity. All of the power of two important departments of the Federal Government were fighting to fasten the stigma upon her. What had she done? She had written a paper on the fundamental facts of sex. Careful investigation of sixty publications had convinced her that there was nothing really suitable to put into the hands of her two sons so she wrote a paper entitled, "The Sex Side of Life." Some of her friends read it. The owner of *The Medical Review of Reviews* asked to read it and he later published it. At his suggestion, she then put it out in a twenty-five cent pamphlet edition and sold it to over four hundred welfare and religious organizations and to doctors, ministers, college professors, Public Health Departments of various states and to Y.M.C.A. and Y.W.C.A. groups. No more uplifting pamphlets has ever been pub-

lished. I have never read anything which would do more to make happy homes and to destroy promiscuity and smut.

After "The Sex Side of Life" had appeared in the *Medical Review of Reviews* and in *The Modern School*, a small magazine for educators, and had been given to friends over a period of about a year, it was published in the pamphlet form as mentioned. Four and a half years later, on September 2, 1922, out of a clear sky, with no premonitory hint, it was declared unmailable under the Federal obscenity law.

In January, 1929, Mrs. Dennett was indicted for an alleged violation of the United States Criminal Code and was ordered to appear in court in Brooklyn five days later. What had she done? She had continued sending her booklet through the mail, sealed. She had mailed a "pamphlet, booklet, and certain printed matter" which were "obscene, lewd, lascivious, filthy, vile and indecent and unfit to set forth in this instrument and to be spread before this Honorable Court."

A Postal Inspector as a decoy had had a little letterhead printed to serve the snooping purpose of the government. Mrs. C. A. Miles was a ficti-

tious character. There is, of course, such a place as Grottoes, Virginia and the Postal Inspector received his booklet and other enclosures addressed to Mrs. C. A. Miles.

Mrs. Dennett was found guilty and convicted of circulating obscene literature. The Post Office Officials, the District Attorneys, the members of the Grand Jury, the twelve jurymen at the trial, three lower court Judges had all cast their influences against Mrs. Dennett and her brochure. United States District Attorney, James E. Wilkinson had called it "pure and simple smut." Perhaps no courtroom ever saw a more disgusting spectacle than this man Wilkinson leaning far over the rail of the jury box waving the pamphlet in his hand and crying his ambition to stand between the children of the country and this woman who was trying to lead them not only into the gutter but below the gutter into the sewer.

All over the nation notable people and organizations declared for Mrs. Dennett and her booklet. Leading children to "sewers" and "gutters" seemed to be popular! Then arose Judges Hand, Swan and Chase who in unequivocal terms not only released the pamphlet but actually praised

the document, commending its truthfulness and lauding its sincerity. Until these three judges spoke, the score had been 60 to 0 against Mrs. Dennett. What an illustration this is of the damaging result of the superstition of the obscenity of the human body and sex.

To the vice hunters in the Post Office, at the Custom House, all of life is filthy. We are conceived in indecency and obscenity. We are not now concerned with the details of Mrs. Dennett's trial. We are concerned with the powers of the Post Office Department, the unlimited authority vested by custom in a single bureau and in a single individual, a dangerous threat to American liberty, sinister and tyrannous. This tyranny of the Post Office censorship has closed the mail to some of the most sincere magazines advocating social progress. This affects millions of citizens by depriving them of their constitutionally guaranteed right to free communication and access to knowledge. The possibilities of the untrammelled power of such tyranny are almost limitless. It has been used to suppress not only pornographic literature but clean expression of

opinion on social and political problems; all under the blanket term "obscenity."

The strangest part of this process is that nowhere among the government officials who hold this amazing individual power, or anywhere else for that matter, is there to be found a specific definition of obscenity. Yet obscenity is a crime. Post Office officials have the power to accuse anyone of criminal obscenity and to bar from the U. S. mails and common carriers the writings of such a person. This power is unrestricted. These tyrants are responsible to no one. The power is centralized in one man, the Solicitor of the Post Office. How long the American people will tolerate this abominable procedure, the most lawless power in the country, a power that curtails the rights of a citizen and give him no reliable right to appeal from a decision?

A few years ago millions of people were reading this story in the newspapers and millions of people were confused and bewildered. What was this United States Criminal Code? Why was a woman of character and refinement being persecuted? Why were government officials calling a

brochure “indecent” and “obscene” and “pure and simple smut” after hundreds of social workers, educators, ministers and others had called it uplifting, educational, conducive to social progress and had ordered it in quantities? Why was the Post Office Department engaged in activity so repugnant to good people? Where and when did the Postal authorities get such powers? These questions were asked everywhere. They were not answered in a satisfactory way. They are asked now. People will not be satisfied until they know the background of all this persecution and the conditions which made such disgraceful persecution possible.¹

X

ANTHONY COMSTOCK, CONGRESS, AND THE POST OFFICE BAN

The first amendment to the Constitution of the United States reads as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

In spite of all the powerful influences that were arrayed for its adoption, the Federal Constitution would have been rejected but for the confident belief that it would soon be amended to remove some of its more objectionable features. In Massachusetts, New York and Virginia, the large and influential states, it was ratified by very small majorities—Massachusetts voting 187 to 168; New York, 30 to 27; Virginia, 89 to 79. Each state accompanied its acceptance of the Constitution

with various recommendations for amendment. As a result of these suggestions from the states ratifying it, the first Congress in 1789 framed and submitted the first ten amendments which were adopted in 1791. The Constitution was still regarded as an experiment. The first ten amendments quieted public opinion and helped to allay the fears of the people concerning the new form of government. Most of the Federalists looked upon the amendments as a rash innovation but moderate men in both parties agreed with Madison that the amendments were necessary to secure the rights of conscience, freedom of the press, trial by jury, and protection against general warrants.

The First Amendment was an unqualified statement but we do not take the position that anyone should be allowed to say whatever he desires anywhere at any time. Surely there are proper limitations upon freedom of speech. There must be some point where government steps into the picture. The First Amendment meant something, however, and should be safeguarded by all those who have sworn to uphold the Constitution, no matter how much they may disagree with people

who are entitled to the protection of the Bill of Rights.

The free speech clauses are not merely expressions of political faith without any binding legal force. They were designed to restrict legislative action as much as any other part of the Bill of Rights. Massachusetts, Virginia and Pennsylvania already had similar provisions and such a clause later was inserted in the constitutions of all other states. The guarantee of freedom of speech was almost a condition of admittance of four of the original states into the Federal Union and is now declared by every state to be just as much a part of its fundamental law as compensation for property taken by eminent domain or as trial by jury. Now such a widely recognized right surely must be expressed for a purpose. It must mean something. There must be some obligation of the Courts to enforce legislation which violates freedom of speech.

Surely the First Amendment was intended as a clear declaration of national policy in favor of public discussion of all public questions. It was thus far more than an order to Congress not to violate its limits of lawful suppression of speech.

Prosecuting attorneys, judges and Congress have ignored the intentions of the framers and hundreds of times have enacted and defended restrictions upon utterance which were clearly unconstitutional.

There are two extreme and unreasonable views which may be eliminated at the very outset. One is the view that the Bill of Rights is a peace-time document and that freedom of speech can be shot to hell in time of war. In 1918 the Attorney General of the United States said in his report:

This department throughout the war has proceeded upon the general principle that the constitutional right of free speech, free assembly, and petition exist in war time as in peace time, and that the right of discussion of governmental policy and the right of political agitation are most fundamental rights in a democracy.

A view equally untenable is the belief of many that the First Amendment renders unconstitutional, without exception, any act of Congress "abridging the freedom of speech, or of the press," that all speech is free and that only actual action can be restrained and punished. Intelligent people must admit that the Bill of Rights cannot

be taken absolutely literally. There must be some exceptions. The trouble has been that we have not always used intelligence in defining the principle on which the implied exceptions are based! A real effort to that end is one great need. The true solution lies between these two extreme views.

It is true that, while the framers of the First Amendment made it plain that they regarded freedom of speech as very important, they said very little about its exact meaning but if the First Amendment means anything at all, it restricts powers which are expressly granted by the Constitution to Congress, since Congress has no other powers. Article 1, Section 1, of the Constitution says, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." Amendment 10:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively or to the people.

The First Amendment must, therefore, apply to those activities of government which are most

liable to interfere with free discussion, namely the postal service and the conduct of war.

It is perfectly clear that the First Amendment fixes limits upon the power of Congress to restrict speech either by a censorship, or by a criminal statute. During the World War some argued that the Constitution gives Congress the power to declare war, raise armies, support a navy and that one provision of the Constitution cannot be used to break down another provision. In thus arguing that freedom of speech cannot be used to break down the war power of Congress, men seemed to forget that conversely it could as well be argued that the war clauses cannot be invoked to break down freedom of speech. The First Amendment is just as much a part of the Constitution as the war clauses. In this connection it would be well to remember that the first ten amendments were drafted and ratified by men who had just been through the Revolutionary War. The Third and Fifth Amendments expressly apply to war.

But we are concerned right now not with war but with the other activity of government, one where our government has been just as prone to interfere with free discussion, the postal service.

When we come to a discussion of this subject, it is absolutely essential that we find the true meaning of freedom of speech. The discovery of truth and the propagation of truth are fundamental purposes of organized society and government. Without free and frank discussion these things are not possible. When force is thrown into discussion, truth loses all the advantages as force is more apt to be thrown on the false side than on the side of truth. Now we must admit that if discussion is unlimited, there are some dangers to order, but freedom of speech ought to be given reasonable interpretation consistent with the First Amendment. We must go deeper than rights to human facts. We must consider both the desires and needs of the individual who wants to speak and the large group of people among whom he speaks. Of course individual interests must be balanced against the social interests. My rights end where those of the other people begin. We must, however, ascertain all the interests involved if we are to be able adequately to balance the individual interest against the social interests. The First Amendment protects, or was aimed to protect, the two kinds of interests in free speech, the in-

dividual interest, the vital need of many men to express themselves on matters they deem essential for the public good, and the social interest in the realization of truth. Only by protecting both interests can a nation follow the best course.

Only when Congress and the courts realize that the principle on which freedom of speech is classed as lawful and unlawful involves the balancing of these two interests, can the true boundary line of the First Amendment be intelligently fixed. Both interests should be maintained inviolate. The public safety and the vital need for the search for truth demand it. Only when the public safety is really imperiled should free speech be sacrificed. Hundreds of times it has been denied when it was hardly conceivable that the public safety would be affected.

One conclusion is plain. The First Amendment was intended to prohibit punishment of words merely for their injurious tendencies. The vital need of free speech as a safety valve and the history of the First Amendment prove the correctness of this conclusion.

No intelligent discussion of so-called Obscenity Cases is possible without this foundation

material on the First Amendment. It prepares us for a fair evaluation of what follows. Zechariah Chafee, Jr., Professor of Law in Harvard University says in his book, *Freedom of Speech*:

The absurd and unjust holdings in some of these prosecutions for the use of indecent or otherwise objectionable language furnish a sharp warning against any creation of new verbal crimes. Thus, the test of obscenity is very vague, and many decisions have utterly failed to distinguish nasty talk or the sale of unsuitable books to the young from the serious discussion of topics of great social significance. The white slave traffic was first exposed by W. T. Stead in a magazine article, "The Maiden Tribute." The English law did absolutely nothing to the profiteers in vice, but put Stead in prison for a year for writing about an indecent subject.

In 1791 the Post Office was the chief means of communication. Until 1847 we had no general postage. Mere provisional issues of postmasters did not appear until 1845. Washington proposed having the mail service of the Federal Government free to the people. He saw a great danger of a time coming when the Post Office Department might be used as a means of suppressing the circulation of ideas considered dangerous or detri-

mental to the welfare of the government. Hamilton, Jefferson and other leaders also stood against the temptation to make provision for such use of the Post Office Department.

What would Washington, Jefferson and Hamilton and other leaders of their time say today? Since 1873 no man in the United States has had greater power than the Solicitor of the Post Office Department, unless it be a President in time of war or President Roosevelt in time of the "New Deal." The Solicitor is the *grand chief exalted censor* of what may go through the United States Mail. All matters of postal law go to him for decision. He is the one man who has charge of the legal affairs of the Postal Department. Nominally, the Postmaster General is over the Solicitor but he rarely intervenes. The Solicitor has and uses, on his own responsibility, the power to ban from the mails anything he desires. He can rule any person's material unmailable which is equivalent to declaring any person who differs with his judgment to be criminally obscene. Persons are deprived of their rights guaranteed by the First Amendment. The Post Office Solicitor has unrestricted authority. He is responsible to no one

save the Postmaster General who does not interfere. As a matter of routine form, his amazing decisions may carry the signature of the Postmaster General but it is the Solicitor who has the full responsibility and power in actual practice.

What can the victim do? He may ask the Solicitor to think with an open mind. He may ask him to listen to the facts and put the truth above his own prejudices but open-minded thinking has not been popular with Solicitors. The Solicitor is not obliged to reveal what phrases or words constitute the obscenity. The victim may go to a Federal Judge and ask for an injunction to delay the ban while the Judge reviews the Post Office decision but a Federal Judge has, as a rule, no desire to antagonize the Post Office Department and he is under absolutely no obligation either to grant the injunction or to review the decision of the Solicitor.

Thus, without any due process of law, the right of a citizen may be taken away. If the victim resents such unjust procedure, and continues to send his writing through the mail, he may, at any time, be indicted and tried in a Federal Court. The powerful Solicitor has all the strength of the

Federal Government's machinery to support him. The poor victim must pay his own expenses, see his profession or vocation damaged, his income reduced, his reputation suffer and he can't sue "Uncle Sam" for what the Solicitor or the Federal Court has done to ruin him.

Zechariah Chafee, Jr., says in *Freedom of Speech*:

When the doctrine was extended to exclusion from the mails, its effect became much more serious. The business man who wishes to communicate with prospective buyers and sources of supply is not a recipient of public bounty like the occupant of free land. While he does make use of governmental machinery, he pays for what he gets, and in substance the transaction is like buying municipal water or riding on a national railway. The opportunity to obtain essential services is a condition of earning a livelihood and very possibly of life itself. If a city cuts off a man's water, he cannot dig a well; if he is kept off the trains, he cannot walk; and in the same way the factory or newspaper which is excluded from the mails is denied any other practicable means of systematic intercourse. The decision virtually ruins its business. All questions of constitutionality aside, Congress ought to consider the advisability of continuing to place such a destructive power in the Postmaster General instead of in an

impartial tribunal which would not be both judge and prosecuting attorney. Questions of the weight and contents of letters are administrative like tariff valuations, but the tax department does not furnish an analogy for exclusion orders in the post-office for fraud and other reasons, because such controversies are comparatively few and similar in nature to those which courts are accustomed to settle, besides being far-reaching in their consequences to the community as well as to the prohibited periodical. The cases I have already discussed of exclusion from the mails for alleged indecency or disloyalty show the possibilities of danger when the attainment and dissemination of truth are regulated by the arbitrary will of one man.

* * * * * * *

If the United States owned the railroads, it ought not to make unreasonable discrimination among passengers any more than a private railroad corporation, and a similar limitation should apply to the postal power. The congressional restrictions which have been upheld by the courts may be considered as reasonable regulations in view of the nature of the service. Even opposition to the government may be entitled to some consideration by the post-office as by the judges, who frequently decide against the United States. It is clear that exclusion from the mails practically destroys the circulation of a book or periodical, and makes free speech to that extent impossible. To say, as many

courts do, that the agitator is still at liberty to use the express or the telegraph, recalls the remark of the Bourbon princess when the Paris mob shouted for bread, "Why don't they eat cake?"¹

For over thirty years this amazing condition has prevailed. What created such a stupid system? It was the statute commonly known as The Comstock obscenity law. Read it. The vague adjectives and the tiresome repetitions will bore you but be bored because, being bored, you will be prepared for what follows. Here is the law:

Sec. 334. (Criminal Code, Section 211, amended.) Mailing Obscene matter.—

Every obscene, lewd, or lascivious, and every filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character, and every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; and every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose; and every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or in-

directly, where, or how, or from whom, or by what means any of the herein before-mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for preventing conception or producing abortion, or for any indecent or immoral purpose; and every description calculated to induce or incite a person to so use or apply any such article instrument, substance, drug, medicine, or thing, is hereby declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier. Whoever shall knowingly deposit, or cause to be deposited, for mailing or delivery, anything declared by this section to be nonmailable, or shall knowingly take, or cause the same to be taken, from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. The term "indecent" within the intentment of this section shall include matter of a char-

acter tending to incite arson, murder, or assassination. (R.S. Sec. 3893; July 12, 1876, c. 186, Sec. 1, 19, Stat. 90; Sept. 26, 1888, c. 1039, Sec. 2, 25 Stat. 496; May 27, 1908, c. 206, 35 Stat. 416; Mar. 4, 1909, c. 321, Sec. 211, 35 Stat. 1129; Mar. 4, 1911, c. 241, Sec. 2, 36 Stat. 1339.)

This legislation, probably as damaging as any ever passed by the Congress, was rushed through in the last hours of the short session in 1873. The story is a most amazing one. The bill had been referred to the Committee on Post Offices and Post Roads but the Committee made no official report. Anthony Comstock appeared before the Committee and that was enough. The members unanimously consented and the bill went on the Senate calendar. There was no roll call in either the House or Senate. It was rushed through by "unanimous consent" and by the "suspension of the rules" just in time to be the last bill of the session and was signed by President Grant. The only speech made in favor of the bill was one read into the Congressional Record, after the bill had been passed. Senator Roscoe Conkling of New York, urged caution, "lest it lead us," he said, "to do something which, when we come to see it

in print, will not be the thing we would have done if we had understood it and been more deliberate about it." Senator Conkling, Senator Edmunds, and the few others who urged caution might as well have talked to the moon. Caution was not in the cards. The Federal obscenity statute of 1872, little stronger than the original law of 1865, was not adequate for what Anthony Comstock desired to accomplish, a law so sweeping that would operate against all questionable matter, even all birth control and sex-literature which was out-spoken enough to be of any real educational value.

Comstock reached Washington at a very opportune time to lobby for his desired "Obscenity" law. Congressmen were busily engaged in investigating the greatest Congressional scandal in our entire history. Both houses had appointed special committees to investigate the operations of the Credit Mobilier, the joint-stock company which had been organized to finance the building of the Union Pacific Railroad. Comstock had plenty of opportunity to become scandalized by something besides "Obscenity." One would think that the exposed political corruption would have made a deep impression on his mind. It did not.

Outside of "Obscenity," his extremely sensitive conscience permitted him to be amazingly charitable to wrong-doers. For such a militant crusader, Comstock was seemingly quite indifferent to the existence of graft but exceedingly hostile to anything relating to birth control or sex education as well as to pornographic material.

The "Obscenity" bill which Comstock spoke of as his bill, was really a merger of several bills. There was one bill which increased the penalty of the law of 1872 without broadening its scope. The Secretary of the Washington Y.M.C.A., had secured the introduction of a bill providing "Obscenity" legislation for the District of Columbia and the Territories. Senator Buckingham had introduced Comstock's bill in the Senate and Representative Merriam had introduced it in the House. An attorney, Benjamin Vaughan Abbott, a brother of Lyman Abbott, drew up the enlarged and reconstituted bill of five sections. It was in this bill that the phrase, "for the prevention of conception" first appeared. Closed tight were many loopholes of the 1872 statute. Several new points were included, among them the prohibition of advertisement of obscenity. All mailing of ob-

scene matter in the United States, including the District of Columbia and the Territories, was prohibited. Even the giving of contraceptive information verbally, by medical men or others, was prohibited. This provision was taken from the law of New York State where the giving of such information, even verbally, was a crime. The Voluntary Parenthood League stated a few years ago that eighteen states had laws like New York and twenty-two had laws modelled after the Federal Statute.

Under the new law almost anything may be classed as "Obscene" if such is the desire of the Post Office Solicitor. This grants no real freedom to the people, whether the material sent through the mail is honest opinion or fact to enlighten and uplift the race or pornographic material to degrade and blight. Nothing is to be gained, however, by denouncing Comstock as a fanatic or questioning his honesty or sincerity. No open minded person can read his life-story without being convinced that his purpose was sincere. Working long and hard, he was courageous in what he was convinced was for the uplifting of humanity. Whether one reads the book, "Anthony Com-

stock, Fighter," by his friend, Rev. Charles Gallaudet Trumbull or "Anthony Comstock: Roundsman of the Lord," by Heywood Broun and Margaret Leech, one is compelled to turn aside with a peculiar intermingling of admiration, kindly humor, sympathy, and pathos. Comstock was a great crusader who accomplished great good intentionally and great harm unintentionally. His work was noble in purpose but perhaps no statute has done so much harm. With the hasty and thoughtless help of Congress, he gave his country a vague and drastic statute capable of unreasonable interpretation which has never been justly enforced or interpreted wisely. After all, what would be gained now by damning Comstock? More than sixty years have gone by since the law was passed. More than twenty years have passed since Comstock went to his "reward." The statute still stands. We retain it. We do not demand that Congress wipe it off the statutes.

Comstock was the father of the idea of giving the Post Office Department the power of censorship and the accompanying penalizing power. The father's idea still prevails. Why don't we change this? Congress makes the laws. We elect

the men to Congress. We can't blame a man who has been dead twenty years for our stupidity now!

To Anthony Comstock anything on sex was obscene. He held the old idea of the early Christian fathers. He held firmly old medical ideas discarded long since. He held the old ideas even when knowledge and beliefs were changing rapidly. All birth control was a wicked sin even though he married a woman ten years older than himself and had only one child. He was certain that autoeroticism caused epilepsy, locomotor-ataxia and idiocy. He was sure that people were ruined by stories and books on sex, even those intended to educate in a helpful way, for sex was indecent and obscene. Many of the books, plays, and pictures suppressed by Comstock were not pornographic at all. He never worried about defining "Obscenity." Even if the seeing or the reading did not harm the judge, the jurors or the witnesses, there were some poor devils who would be harmed by the same things. Almost anything on sex would be sure to harm somebody, somewhere, sometime. Anthony was utterly unable to discriminate between a pornographic book and a

sociological or medical book of educational character.

In 1876, just three years after Comstock's obscenity law was passed, an organized effort was made to have it repealed or amended. The National Liberal League secured some seventy thousand signatures to a petition. Meetings were held in many cities. Much support was given by the press, many leading publications supporting the petitioners. Finally Congress granted a hearing but the committee decided against any change in the law. Anthony again presented his marvelous collection of literature on sex perversions and smutty post cards but Congressmen failed to see that the exhibit was the result of the superstition of the obscenity of the human body and was an exhibit of pornographic literature and not an argument for the prohibition of sociological or medical information on sex or for the prohibition of all contraceptive information, published or verbal by medical men and laymen.

The National Liberal League protested at the indefiniteness of the law. At its 1876 convention a resolution was passed as follows:

We protest against all laws which by reason of indefiniteness or ambiguity shall permit the prosecution and punishment of honest and conscientious men for presenting to the public what they deem essential to public welfare, . . . and that we demand that all laws against obscenity and indecency shall be so clear and explicit that none but actual offenders against principles of purity shall be liable to suffer therefrom.

The petition was lengthy. Section 4 included the following:

Your petitioners are convinced:

That mental, moral and physical health and safety are better secured and preserved by virtue resting upon liberty and knowledge, than upon ignorance enforced by governmental supervision.

That even error may be safely let free, where truth is free to combat it. That the greatest danger to a republic is the insidious repression of the liberties of the people.

That wherever publications, pictures, articles, acts or exhibitions directly tending to produce crime or pauperism are wantonly exposed to the public, or obtruded upon the individual, the several states and territories provide, or may be safely left to provide, suitable remedies.

A study of many so called "Obscenity" cases since the passage of the Comstock law in 1873 reveals many interesting aspects. Various books have pointed out many glaring inconsistencies in the numerous conflicting court decisions. The extremely indefinite character of the law is such that it was and is now impossible for a person to know whether he or she is acting in accord with or in violation of, the law. Any person who desires detailed information on convictions under the Comstock law may read, *Obscene Literature And Constitutional Law* by Theodore Schroeder, *To The Pure* by Morris Ernst and William Seagle or *Anthony Comstock: Roundsmen Of The Lord* by Heywood Broun and Margaret Leech.² These books give a complete array of opinions and decisions showing that there has been no unanimity of opinion as to the meaning of obscenity which has had different meanings to the same people at different times and places, to different people at the same times and places and to different people at different times and places. Some decisions have held that the words sent through the mail must be obscene. Others have held that it is sufficient that the idea be obscene; it being enough if the

words convey a mere suggestion of obscenity to the people uneasy with desire or lascivious curiosity. To some, every book or pamphlet that in any way suggests any thought of sex relations is lewd, lascivious and obscene.

A study of numerous cases reveals convincing evidence that some men and women have been persecuted because of their unconventional ideas in general rather than for actual obscenity. Comstock was of the old ultra-conservative fundamentalist school and he was avid in finding some sex passage as an excuse to go after any writer whose theology was not orthodox, according to his own conservative standards. The vague indefinite character of the statute of 1873 made this kind of procedure possible to an admirable degree. He used the statute to fight the spread of what he considered objectionable social or political ideas. No statute ever written has been as well adapted to "frame-ups" to "get" those whose views on religion, economics, sociology, government, or morals did not coincide with those who were out to punish all non-conformists.

The alleged offenders were, for the most part, unconventional in their ideas. Some were free-

thinkers, unorthodox in their religious views and radical in their social and political views. Some were very crude and unscientific. Instead of appreciating that sex exerts a deep influence on the thought and action of man in his social relations with others, instead of understanding that the sexual impulse is the very basis upon which social advancement is developed; instead of seeing that it is, in fact, the root of all ethics, aestheticism and religion; instead of appreciating that the sacrifice of self and the sublime virtues spring from sex life, or sex sublimation, instead of understanding that the propagation of the human race is guaranteed only by the mighty irresistible sex impulse; instead of realizing that sex is essential to all moral tendency, all poetry, all acquiring of property, all home building, all altruistic sentiment; some of these people looked upon sex as a very sinful thing that destroys honour, health and happiness, degenerating into the basest vice and lowest passion. They were foolish and deluded, in some ways as much so as Comstock, but they were a product of their time and were not corrupting the public morals any more than was Comstock.

De Robigne' M. Bennett was for many years editor of the *Truth Seeker*. He wrote and published numerous pamphlets in which he gave full expression to his unorthodox religious views. His first arrest was for his pamphlet, *An Open Letter to Jesus Christ*, a fact which seems to bear out his statement that Anthony Comstock was using the obscenity statute as a pretext to persecute him for his unorthodox religious views. He wrote one pamphlet entitled, *Anthony Comstock: His Career of Cruelty and Crime*. He was indefatigable in his opposition to the Comstock obscenity statute. He sent out petitions urging the repeal of the law and to get signatures he sent with the petition blanks, circulars letters to "Publishers, Booksellers, Editors, Importers, Druggists, Artists, Physicians, and Lovers of Liberty and Justice in the United States," contending the statute was "capable of being construed so as to bear with excessive severity upon many of the best and most loyal citizens of the country." He showed that obscenity was incapable of exact definition and took the position that the statute was unconstitutional. Thus, in addition to his unorthodox religious ideas and his alleged obscen-

ity, he gave Comstock a third motive for pursuing and suppressing him, his strenuous and unremitting opposition to Comstock's "child," the obscenity statutes.

In November, 1877, Comstock and a Deputy United States Marshall visited Mr. Bennett in the office of *The Truth Seeker* and arrested him on a charge of sending obscene matter through the mails. The obscene matter consisted of two tracts, the one mentioned above, *An Open Letter to Jesus Christ*, and one written by a minister named Bradford which was a scientific treatise on the propagation of marsupials. Outraged as Anthony was, he was unable to have Bennett brought to trial for having mailed them. Colonel Robert G. Ingersoll had written to the Postmaster General on Bennett's behalf, enclosing the two pamphlets, and evidently no obscenity was found in them for the case was dismissed.

Bennett soon invited another arrest. In August, 1878, The National Liberal League was assembled in convention in Cincinnati and a convention of liberals was in session in Watkins, New York. Ezra Heywood, author of *Cupid's Yokes*, whom we will introduce later, was a prisoner in

Dedham jail. Mrs. Heywood was in financial need. Her sister took some of the pamphlets to the convention to sell. While she was away from the table a few minutes, Bennett obligingly took her place at the table and sold a copy of the booklet, *Cupid's Yokes*. Immediately he was arrested under the New York law on the charge of selling obscene literature. While local people of Watkins inspired the arrest, Bennett was probably correct in his contention that Comstock was back of it. Bennett had never been in full sympathy with the views of Heywood as expressed in *Cupid's Yokes*. He was a strong advocate of freedom of speech and of the press and he stated in his paper that he would send *Cupid's Yokes* through the mails to all who ordered it. He said later, "It was not written to excite passion but to elicit thought. It is not a pamphlet the young would read, being dry and prosy."

Detective Anthony was on the job. Bennett received many orders, one purporting to be from a G. Brackett of Granville, New York. The letter enclosed three and a half dollars for several copies. Bennett sent the pamphlets and was arrested. He was tried in March, 1879 before Judge

Charles L. Benedict of the United States Circuit Court. As usual in obscenity cases, no expert testimony as to the character of Heywood's pamphlet was permitted. Comstock boasted that he never lost a case in Judge Benedict's Court. They worked together! They were accomplices. The Judge ruled against the attempt of the defense to show, by the evidence of Ezra Heywood, the author, what the intentions were in writing *Cupid's Yokes*. He ruled against admitting any evidence regarding the authors consulted in the preparation of the manuscript, the appearance of similar material in books never attacked by Comstock, the classification of the booklet by book dealers, or the length of time the pamphlet had been sold without interference before Bennett started to handle it. Bennett was the man Comstock and Judge Benedict were determined to "get." The defense wanted to show that pornographic books were always sold at high prices which varied with the time and the place, such books or pamphlets always selling for all the traffic would bear, while *Cupid's Yokes* always sold for fifteen cents. Such evidence was not permitted. Judge Benedict ruled that the general

scope of the work was not an issue. The members of the jury were told to take Judge Benedict's definition of obscenity—anything having a tendency to suggest impure and libidinous thoughts to the young and inexperienced. Was it any wonder that the New York *World* said in an editorial March 27, 1879, referring to this trial of D. M. Bennett, "The Tendency of Federal Judges since the war has been to usurp the functions of the Jury." Bennett was handed thirteen months' imprisonment at hard labor. The champion team of Comstock and Benedict had made their own rules and won another game. They could not do otherwise. Team work won every game they played for the rules they made for the game made victory inevitable.

President Hayes was considerably disturbed. Attorney General Devens had expressed his opinion that, though an undesirable publication, *Cupid's Yokes* was not obscene. A few months before the President had pardoned Ezra Heywood who had been convicted for distributing the same pamphlet. The National Liberal League joined with Mr. Bennett in the charge that Bennett had been persecuted for his opinions and that he had

been arrested because he was one of the leading publishers of infidel literature. It was claimed that there were 200,000 signatures on the petition for pardon which was presented to President Hayes. Presidential pardons did not strike Comstock favorably. Anthony knew how to proceed to influence President and Mrs. Hayes, devoutly religious people. A nation-wide movement was started to get ministers to urge President Hayes to keep Bennett in jail. Sunday school children signed petitions to Mrs. Hayes to use her influence to keep Bennett in jail. Mrs. Hayes' Methodist pastor made his attitude known. Then, just at the psychological moment, Comstock appeared on the scene with some indiscreet letters which Bennett, married over twenty years, had written to some woman. That was enough. President Hayes denied the petitions. The man who had been everything vile in "Blasphemy and Infidelism," to use Comstock's expression, was sent to the penitentiary at Albany.

Bennett was a stout man of some sixty years and in failing health. He became ill and Mrs. Bennett thought he would not live out his term. She carried petitions bearing some thirty thou-

sand signatures to President Hayes urging a Presidential pardon. She thought the President seemed sympathetic but her appeal was ignored. Bennett improved somewhat in health and lived to complete his term. After his release he made a trip to Europe in August 1880 and died in 1882 at home.

The case of Ezra Hervey Heywood was equally famous. Heywood, in his earlier years, had been a member of the Congregational Church and had taught a Bible Class. He had planned to enter the ministry but, influenced by the writings of Theodore Parker, he withdrew from the Church. After graduation from Brown University, he became absorbed in the abolitionist movement. Being a nonresistant pacifist, however, he did not favor the Civil War. Later he became interested in the labor movement, lecturing, writing many pamphlets and editing a monthly journal called, *The Word*. He was a man of high ideals, advocating woman suffrage and temperance as well as labor reform, socialism and free-thought. His wife shared his interests, being likewise active in the causes of abolition, woman suffrage and temperance. In 1873 Heywood formed "The New England Free Love League," and he started at that

time to discard the A.D. and date his letters and documents "Y.L." the Year of Love. His neighbors in Princeton, New Jersey, held him in esteem, respecting his sincerity and honesty, although they deemed him peculiar.

Heywood wrote the pamphlet, "*Cupid's Yokes*,"—"Some Moral and Physiological Phases of Love and Marriage," mentioned in the Bennett case. Today the brochure would be considered not only harmless but rather tedious reading, but in those days the booklet had a record of five court decisions—two convictions, one jury disagreement which was followed by a dismissal, one court instruction to acquit on the ground that the pamphlet was not obscene, one pardon by President Hayes from a prison term of two years on the ground that the booklet was not obscene and one abandonment of prosecution. The confusion leading to such diverse results was not due to lack of agreement as to the meaning of the contents of the booklet but to the lack of certainty as to what constituted obscenity. In reality Heywood had written a sociological treatise giving his views on love and marriage. Heywood's neighbors declared that his writings were not ob-

scene but, on the contrary, were earnest expressions of his opinions. He had been no more plain-spoken on love and marriage than he had been on slavery, temperance, labor reform and other movements he served. He was, they said, "a respected townsman and neighbor," and they petitioned, on the occasion of his third arrest on the charge of obscenity, that the indictment be dropped.

Comstock was never in any mood to drop a charge against one like Heywood who held unconventional sexual, religious and social views. To Anthony Comstock the booklet was "too foul for description," and the vice-crusader had in addition a personal motive for revenge. Heywood had called him a religio-monomaniac and had stated that the mistaken will of Congress and lascivious fanaticism of the Y.M.C.A. had influenced the Federal Courts to suppress free inquiry. Heywood had also said in the pamphlet, "The better sense of the American public moves to repeal the National Gag Law which he now administers."

Perhaps no incident in Comstock's life reveals more clearly the pitiful state of his mind and that his imagination had run wild than an incident in

his bitter pursuit and persecution of Heywood who was first arrested while addressing a convention of his free love organization in Boston. In the chapter entitled, "Free-Love Traps" in his book, *Traps for the Young*, Comstock tells of his first arrest of Heywood in November, 1877.

I looked over the audience of about 250 men and boys. I could see lust in every face. After a little, the wife of the president (the person I was after) took the stand, and delivered the foulest address I ever heard. She seemed lost to all shame. The audience cheered and applauded. It was too vile; I had to go out.

Poor Anthony! He could look at an audience of two hundred and fifty men and boys and see lust in every face! It was unanimous! Not one undefiled countenance in the entire audience. Surely the lust was in Anthony's mind instead of the faces he beheld. At this point one finds it difficult to be charitable with Comstock even though he must have been sincere in his obsession.

Heywood was convicted for sending through the mails *Cupid's Yokes* and a medical book, Thrall's *Sexual Physiology*. While he was in Dedham jail, his friends and sympathizers held an indignation meeting in old Faneuil Hall, there

protesting vigorously at the violation of the freedom of the press by his conviction and imprisonment. The meeting, said to have been attended by six thousand people, was also a long and enthusiastic abolition rally in celebration of the anniversary of the emancipation of the slaves in the West Indies. Anthony Comstock might have been able to see "lust" in every one of the six thousand faces although the speakers were men of high ideals and of course condemned obscenity. They opposed Comstock and the infamous federal legislation which he had sponsored and under which Heywood had been convicted. Vigorous protest was made against the alleged unfairness of Heywood's trial in the United States Circuit Court in Boston before Judge Daniel Clark. The District Attorney was as uncouth as was United States District Attorney James E. Wilkinson in the case of Mary Ware Dennett reported in Chapter IX. In this Heywood case, the grand jury, acting on the actual instructions of the District Attorney, declared that *Cupid's Yokes* was too "obscene, lewd and lascivious" to be placed on the records of the court. Remember that Attorney General Charles Devens told President

Hayes that this same pamphlet was not obscene. Judge Clark was fully as unfair as Judge Benedict had been in the Bennett case and in all the Comstock cases. Judge Clark ruled that to establish Heywood's guilt the brochure need not be obscene as a whole but only in certain passages and obscenity meant to Judge Clark anything written about the body or its functions or questioning the social regulations governing sex relations. The judge practically instructed the jury to convict, for he told them that if Heywood's ideas were practiced, the state of Massachusetts would become a vast house of prostitution. The judge had an imagination equal to that of Comstock who could look at an audience and see lust on every face. The mass meeting was fully justified in saying Judge Clark had been unfair and resolutions were passed asking not only for the release of Heywood but the dismissal of Comstock by the Post Office Department which had employed him as Special Agent after the passage of the "Comstock" law in 1873.

If anyone doubts that the Comstock Laws were used as a cloak for the persecution of those whose unorthodox religious opinions did not agree with

Comstock's fundamentalism, he has only to read Comstock's diary. Read what Anthony said anent President Hayes' presidential pardon of Heywood late in 1878.

The Pres. pardons this man on the petition of Infidels and liberals, free lovers and Smutt dealers, in the face of a solemn protest signed by the officers of our Soc. and an affidavit setting forth the fact that Heywood was openly defying the law through his friends, and their selling his book while he was in jail. This action of Pres. Hayes practically licenses the sale of *Cupid's Yokes*, and is a strong encouragement for others to violate the law, as well as a great hinderance to the further enforcement of the law.

In the fall of 1882 Comstock arrested Heywood a second time and the case was before Judge T. L. Nelson in the United States Court in Boston. This time Comstock had four counts in the indictment. The first, of course, was *Cupid's Yokes*. The second was the publication of *The Word Extra*, which was composed of two poems from Whitman's *Leaves of Grass*, "To a Common Prostitute" and "A Woman Waits for Me." The third and fourth concerned the publication of an advertisement called, "The Comstock Syringe"

which was carried in *The Word*, Heywood's magazine.

Unfortunately for Comstock, he did not have this case before either of his colleagues in persecution, Judge Clark or Judge Benedict. The Grand Jury had run true to form and declared *Cupid's Yokes* and the Whitman poems, "too grossly obscene and lewd to be placed on the records of the court." This old trick simply meant that the jury was to take from the prosecution the decision regarding obscenity. They were to be given no opportunity to read and use their own judgment. But here was a judge who was not a wilful and deliberate party to persecution. Judge Nelson threw out the first two counts of the indictment on the ground that the allegations were untrue. Heywood was tried only on the charge of having published obscenity in the syringe advertisement and was found, "not guilty." This was not Heywood's last arrest but Anthony Comstock dropped out of the picture.

There can be no doubt that Comstock hated Bennett, Heywood and other free-thinkers because of their lack of orthodox faith. He attacked Ingersoll just as bitterly. He always spoke of re-

ligious liberals as "ex-convicts" and "smut-dealers." He never could credit any decent motive to a person who opposed his postal legislation. His books are filled with coarse and vulgar approbrium and bitter censure of his enemies. There was no Christlike spirit about Anthony. He openly displayed a savage pleasure in pursuing his victims, having them convicted and he is said to have expressed satisfaction in driving several to suicide. In January, 1873 he wrote to Representative Clinton L. Merriam who had been influential in having the Federal Statute of 1872 passed and who introduced the Comstock law in the House in 1873, saying in his letter:

There were four publishers on the second of last March. Today three of these are in their graves, and it is charged by their friends that I worried them to death. Be that as it may, I am sure that the world is better off without them.

And Anthony was a lifelong disciple of the meek and lowly man of Galilee!

Ida C. Craddock was a shorthand teacher in Philadelphia. She was forty-five years old when she came to the attention of Comstock in 1902.

She became "Instructor in Divine Science." Physicians declared her insane. She believed herself to be the wife of an angel, and on the experience with her "angel husband," she wrote numerous essays. She gave a religious interpretation to many erotic hallucinations. Among other things, she wrote a brochure, *The Wedding Night*, advice to the newly married. While doubtless unbalanced, she wrote rationally and even brilliantly within the limits of her delusion. The Rev. Dr. W. S. Rainsford, Rector of St. George's Church in New York, said that if all young people were to read her booklet, "much misery, sorrow and disappointment could be avoided." There was nothing obscene about the booklet. It was filled with good advice but Comstock called it, "the science of seduction." His agent secured evidence against her. She was arrested, tried and convicted in the state courts, and served three months in jail. Comstock then had her re-arrested on the charge of sending obscene matter through the mails. The judge in the United States Circuit Court said the booklet was "indescribably obscene." The jury had no opportunity to read the booklet and, without ever leaving their seats,

found her guilty. Before time to appear for sentence, Ida Craddock inhaled gas in her fourth floor room on Twenty-third Street. She could not face another prison term. In one of her farewell letters she said, "I am taking my life because a judge, at the instigation of Anthony Comstock, has declared me guilty of a crime which I did not commit—the circulation of obscene literature."

Comstock had boasted of causing fifteen suicides. Miss Restell was number fifteen. He did not include Miss Craddock. He no longer boasted of causing suicides. He did not list Miss Craddock's death as one of his trophies in his crusade for purity. Her letters naming Comstock did him great damage, for public sympathy was with the poor woman who, though peculiar, had written truth which was needed by a deluded world suffering from a false conception of obscenity.

The Bennett, Heywood, and Craddock cases have been presented somewhat in detail to show how the Comstock law has been used to persecute persons of unorthodox views, how government agencies and courts have failed to discriminate between the pornographic and the educational and sociological, how high intent has been taken for

hypocrisy; how honest, serious and scientific writers have suffered with the openly indecent racketeer.

Numerous other cases might be cited to show confusion as to the meaning of obscenity and inconsistencies in court decisions. George Francis Train published, without comment, accurate quotations from the Bible and was pronounced insane. John B. Wise did the same and was found guilty and fined. Fred Warren, Editor of *The Appeal to Reason*, was twice indicted and was probably justified in charging that the indictments were actuated by antagonism to his Socialist activities. Hobart Croomer, a Socialist Editor in Oklahoma, was found guilty of publishing obscenity and given six months in jail. He was guilty of announcing a forthcoming edition of his paper as the *Free Love Edition of The Social Democrat*. There was no free love material in the issue as published, but The United States Circuit Court declined to reverse the decision, saying that the indictment was based merely on the advance announcement and not on the article which it announced. In 1906 Bernarr McFadden was given a \$2,000 fine and two years of hard labor in the

penitentiary for a series of articles in his magazine, *Physical Culture*, a series entitled, "Growing to Manhood in Civilized Society." Not one subscriber complained to the Post Office Department. Mr. McFadden never received one adverse criticism. The Post Office Department admitted that some unknown person had complained. An unknown had lighted the fires on the inquisition! There was no obscenity—just one poor deluded disturbed "nut." All of these cases illustrate how easy it is to use the Comstock law against anyone toward whom some people may harbor a grudge on account of liberal, unorthodox or unconventional views.

The American Civil Liberties Union has published the story of a more recent case, perhaps one of the most important and outstanding cases of the Comstock law being used purely for a political purpose. Carlo Tresca, an Italian citizen, had been a resident of the United States for some twenty years, living most of that time in New York City as editor of a radical weekly labor publication, *Il Martello*, (The Hammer). He also served as a strike organizer and leader. After the Fascist dictatorship came into power in Italy,

Tresca attacked that dictatorship. Some copies got into Italy. It is significant that the prosecution was started directly on the demand of the Italian ambassador as indicated in the files of the State and Post Office Departments! While Tresca was indicted and tried under the federal statute which prohibits the sending of birth control information through the mails, his real offense was his vigorous opposition to Mussolini.

Immediately following a speech by Prince Caetani, the recent Italian Ambassador who had returned from Italy in July, 1923, there was correspondence between the Post Office and Justice Departments. An excuse was found to indict under the Comstock law and Tresca was arrested, indicted, sentenced, and defeated on appeal. It is a matter of court record that Assistant District Attorney Mattuck asked for a stiff sentence on the ground that the case was tried at the instance of the Italian Ambassador! Mr. Mattuck also stated that if Tresca would leave the country, no prison sentence would be asked. Tresca declined the offer. Thus we have evidence that three departments of our government—State, Post Office and Justice Departments, used the Comstock law to

“railroad” Tresca either out of the country or to prison.

Let us now trace carefully that disgraceful procedure: First of all, the July 21, 1923 edition of *Il Martello* was held up in the mails without any specific charges and without warning. On August 10, Tresca was arrested for having written an article entitled: “Down With The Monarchy,”—an article three months old. He was held by the United States Commissioner under bail on this charge but the charge was finally dropped when something which looked better was discovered! The grand jury indicted him for advertising an Italian book, *The Art Of Not Making Children*. On August 18th the Post Office inspector gave him orders to delete an announcement of a raffle, a notice which two other papers carried without an interference. Next the September 8th issue was held up. What was wrong now? The Post Office authorities had made a discovery. There was a two line advertisement of a book on birth control to be deleted. All copies were marked over by a black pencil and the issue was then accepted for mailing. However, on October 30th., Tresca was again indicted for that same offense. One

blushes with shame that his government would indulge in such petty persecution. The Department of Justice placed an agent in Tresca's office, the agent having secured employment. This agent then furnished information regarding the mailing of books on birth control which made up most of the counts in the indictment. Is it fair to say that the Post Office authorities were deliberately looking for a technical offense with which to "get" Tresca? Well, draw your own conclusions. English language newspapers were carrying similar advertisements of the books giving information on birth control. Other Italian newspapers were carrying the same advertisement of the same book on birth control without any interference or prosecution!

The government's persecution and unfair discrimination did not end with the indictment. The October 27th issue was held up because it carried the story of the Fascisti forcing a woman to take an immense dose of castor oil. The same story was carried in nearly all of the American newspapers. No other paper was bothered by the unscrupulous agents of the Post Office Department. The November 10th issue was held up because it

carried a letter from one of the subscribers who expressed the prediction that Mussolini would come to the same end that Rienzi had suffered. Readers will recall that Rienzi was a Roman tribune who lived 1313–1354 A. D., who was murdered while trying to escape from a building which had been fired while he was trying to address a mob. A Hearst editorial had made the same prediction as had many other papers but the Post Office agents made no interference whatever save with *Il Martello*.

Now let us see how the old Comstock law, technically called Section 211 of the United States Criminal Code, was used for the ulterior purpose of “getting” Carlo Tresca. Keep in mind that the Comstock law makes the dissemination of all birth control information “obscene.” Count number one was the charge that Tresca had mailed a book entitled, *Sexual Perturbation*. Counts numbers two and three charged that Tresca had mailed the book before-mentioned entitled, *The Art of How Not to Create Children*, a translation of Margaret Sanger’s pamphlet “Family Limitation.” Four other counts simply charged that Tresca had sent the same book to

other persons. Tresca was convicted only on the eighth count which charged that he had deposited in the United States mail an issue of his newspaper which contained an advertisement of the book above mentioned. Now it had happened that Tresca was out of New York City on vacation at the time that one of his men, named Vella had accepted the advertisement. Tresca had no knowledge of the advertisement. He said he had never seen or read the book. He was responsible, as the editor and publisher, for what had gone into his paper during his absence. The advertisement had been deleted and the Post Office Department had then accepted the paper for mailing.

The trial was a disgraceful procedure. The United States District Attorney went into Tresca's labor record and his radical views, knowing well that such matters had nothing to do with advertising a birth control book. The introduction of such irrelevant material succeeded admirably in prejudicing the jury against Tresca and that was what was desired. On December 8, 1923, Tresca, in one of the most disgraceful and shameful trials in our entire history, was sentenced to a year and a day in Federal prison. The conviction was ap-

pealed to The United States Circuit Court of Appeals and affirmed on November 9, 1924. This affirmation was only on the legal question as to whether he had "knowingly" participated in advertising the birth control book. Of course such knowledge was not necessary to confirm his conviction. As editor, he was responsible for the acts of his employees. Leading newspapers carried editorials protesting at the rank unfairness of using the Comstock law to "get" Tresca for what everybody knew was the real offense, his militant opposition to Mussolini.

Tresca started serving his sentence January 6, 1925. The American Civil Liberties Union prepared a petition for his commutation and immediate efforts were made toward that end. On February 16th, President Coolidge commuted the sentence to four months which Tresca served, being released May 7, 1925.

We need have no sympathy whatever with the social objectives or the political views of Carlo Tresca but we can protest against the shameful use of the Comstock law for such political purposes. There was no law to convict Tresca for his opposition to Mussolini so the Comstock law

was invoked to "get" him. That federal officials can be used in this country to serve as tools for various individuals and organizations for their own diabolical purposes is a challenge to every American who appreciates the value of the first amendment to our Constitution.

XI

WHAT SHALL WE DO WITH COMSTOCKERY AND THE POST OFFICE CENSORSHIP POWER?

• Undoubtedly there are some people who would defend the old Comstock law as it stands today. I have not met anyone who takes the position that the law should be continued as it is now but I have discussed this only with liberally minded people. Some would repeal the law and do away entirely with censorship. Some would revise the law by amendment. The National Committee on Federal Legislation for Birth Control was formed to secure amendment of Federal laws which obstruct the administration of state laws relating to birth control. At this writing petitions are being sent to President Roosevelt urging him to recommend to the Congress the immediate passage of Bills S. 4000 and H.R. 11,330 to amend Sections 211-245-312 of the Criminal Code in order that parents may obtain proper scientific instruction on birth control to enable

them to control the size of their families in consideration of the health of the mothers and the earning capacity of the fathers.

Margaret Sanger, President of the above mentioned National Committee makes the following statement in support of the petitions to President Roosevelt:

THE PRESENT FEDERAL BIRTH CONTROL LAWS

1. Section 211 of the U. S. Penal Code . . . Prohibits sending or receiving by or from the U. S. Mails information or supplies pertaining to the prevention of conception. *There are no exemptions.*

2. Section 245 of the U. S. Code . . . Also prohibits sending or receiving, by or from, an express company or other common carrier, information or supplies pertaining to the prevention of conception. *There are no exemptions.*

3. Section 311 and 312 affect the territories and districts of the U. S., and are even more rigid in their prohibition as they forbid even the POSSESSION of any article intended for the prevention of conception. *There are no exemptions.*

Violations of these laws are subject to \$2,000 or \$5,000 fine or imprisonment for five years; or both.

BIRTH CONTROL BILLS S. 4000 AND H.R. 11,330

WOULD AMEND THE ABOVE SECTIONS by adding the following paragraphs to each section:

The provisions of this section shall not be construed to apply to any book or information relating to the prevention of conception, or article, instrument, substance, drug, medicine, or thing, designed, adapted, or intended for the prevention of conception, for use

- (1) by any physician legally licensed to practice medicine in any State, Territory, or the District of Columbia, or by his direction or prescription;
- (2) by any druggist in filling any prescription of a licensed physician;
- (3) by any medical college legally chartered under the laws of any State, Territory, or the District of Columbia; or
- (4) by any hospital or clinic licensed in any State, Territory, or the District of Columbia, except in any State in which such use is prohibited by the law thereof.

A FEW IMPORTANT REASONS FOR AMENDING EXISTING BIRTH CONTROL LAWS:

Federal laws conflict with State laws. Doctors are confused as to the legal status of the subject. Physicians fear to give contraceptive advice. Study and medical research is hampered.

Physicians legally giving advice in their States are

forced to "bootleg" their contraceptive supplies and scientific information. Federal Laws forbid using U. S. Mails or common carriers to obtain or send contraceptive information or supplies. Physicians may choose to violate Federal Laws in private practice; BUT will not do so in hospitals, dispensaries, and public clinics, as they do not wish to involve such institutions in illegal transactions. Consequently, poor women are unable to obtain this knowledge.

The change in Federal Law would make it possible for 7,000 hospitals to open their doors to mothers seeking this information, and the PUBLIC HEALTH PROGRAM OF THE FEDERAL GOVERNMENT COULD LEGALLY INCLUDE BIRTH CONTROL CLINICS.

Increased knowledge of contraception would mean a reduction in the number of criminal abortions. Over 15,000 women die each year from this cause alone.

LASTLY: During this period of economic distress and unemployment, with millions of families dependent upon Federal relief, wives and mothers should be able to obtain through responsible medical channels, this form of CONSTRUCTIVE relief.

This is a noble effort to end for all time, so far as the law against birth control information is concerned, the Comstock fiasco of 1873. How any person can hold that there is anything inherently obscene in arguments for and against the pre-

vention of conception is hard to understand, but just the fact that sex is involved in birth control is sufficient for some narrow-minded and bigoted reformers to accuse all birth control advocates with disseminating obscene literature. To some closed minds birth control information and obscene literature are incapable of being disjoined. Federal Postal law is the worst example. Such omnibus laws as the Comstock law inspire nationwide protest and have called for the provisions against obscene literature and birth control information which are merged in the same statutes. The same bills are introduced in the House and Senate each session. Whether Senator Royal S. Copeland and Congressman Percy L. Gassoway will be any more successful in the second session remains to be seen. In the 74th Congress, first session, it was Senator Daniel O. Hastings of Delaware who introduced the bill in the Senate as bill S 600 and Congressman Walter M. Pierce of Oregon in the House as HR 2000. When HR 2000 was tabled, Mr. Pierce immediately introduced HR 5600 so that it would still be on the calendar. Both bills died and so the new bills were introduced in the second session.

But passage of this bill to give medical men power to disseminate birth control information does not solve our whole problem. We have seen how the law of 1873 was hastily thrown together and jammed through Congress in the closing hours of the session without debate or even intelligent understanding by the members. After all these years we are still suffering from the folly of those Congressmen. There is, unfortunately, no unanimity of opinion either on Mrs. Sanger's amendment or on the other provisions of the law of 1873. People do not have the same reactions on this problem of obscenity and sex. We are a heterogeneous people. Our varying social, psychological and religious backgrounds seem to delay sane intelligent co-operation in undoing the damage which Comstockery has done since 1873. Let us look now with open minds to the numerous and varied proposals offered to get us out of the mess into which Comstock and his kind have gotten us.

First, we have a very large and intelligent group who argue against any censorship whatever. I have read Heywood Broun, Waldo Frank, Henry L. Mencken, Morris L. Ernst, William

Seagle, Theodore Schroeder, V. F. Calverton and others who take the position that obscenity is a superstition and oppose all censorship. I am convinced of the absolute sincerity of these men. Intellectual honesty requires that I say there is sound logic in their position. These men point out how we have been taught that the human body is obscene and that the modern point of view toward sex and the child, as the writer endeavors to show in this book, will revolutionize many of our standards and tests of the obscene. The civilized school or college no longer exhibits in the classes in biology or physiology charts of the human form with the genital organs removed. The organs themselves are not obscene. Mystery concerning them may be what some people would call obscene. If there is obscenity involved, it is in the mind of the beholder as a damaging result of the wrong teaching. There is no obscenity in the thing beheld. Theodore Schroeder is correct in saying, "Pornographic interest is healthy interest grown morbid." There is some ground for these opponents of censorship saying that the cure for pornography is to cure the morbid interest. They argue that suppression does not cure it any more

than dark clothes are a preventive against dirt. They become as soiled as white clothes but, as we all know, do not show the dirt. Intelligent teachers now discuss openly and frankly the problems of what are known as dirty sexual words. With thinking people, a frankness of approach is replacing dishonest replies and evasions to questions sincerely asked by children.

In February, 1935 I read in my morning paper the following pathetic story:

MINISTER IS SLAIN; SON, 14, CONFESSES

Carter, Okla., Feb. 23—(A.P.) Jack Campbell, fourteen-year-old minister's son, who had been threatened with exposure to his father for displaying obscene pictures, was arrested today after the father, the Rev. Earl Campbell, was killed by a shotgun blast.

K. T. Roberts, an undersheriff, said tonight that the boy sobbed out the explanation: "I couldn't stand to face him. It was easier to kill him."

The poor lad said it was easier to kill his father than to face him on the issue of obscene pictures which the boy had carried and displayed. No doubt the boy knew his father well enough to know what to expect. The minister was a product

of wrong training. All his life he had been taught that the human body is obscene. Instead of calmly putting his arm around the boy and explaining to him that the body is clean and wholesome in all its functions, instead of explaining that there is no point in making the body the subject of levity, instead of showing that making the organs of reproduction the subject of humor is a cheap and vulgar way of exploiting and commercializing sex curiosity, instead of pointing out those pictures are sold by racketeers at prices many times what other pictures of the same quality of paper and printing bring, the father was evidently accustomed to punish and humiliate his son. The boy found it easier to kill him than to face him. Fear seized control. God pity the parents who are so blind as to create such fear in the child that he will not come to them and confide in them.

Opponents of censorship hold that the very existence of obscenity prohibitions, state or federal, help to perpetuate the mystery and lure on which morbid sex curiosity thrives. Not without reason do they argue that to drive pornography into secrecy is merely to play into the hands of unscrupulous racketeers who exploit and com-

mercialize sex curiosity which could and should be normally satisfied. Certain kinds of vermin thrive in dark, damp, hidden places. They do not thrive when exposed to the light. Opponents of censorship advocate education and good publicity to lead us out of the slough of Comstockery. Destroy the superstition of the obscenity of the human body. Exhalt the human body instead of degrading it. Expose the fallacy of Comstock's idea that all discussion of sex is obscene. Give people the right attitude toward sex and pornography will be replaced by healthful normal interest for such interest will have no occasion for becoming morbid. In time obscene jokes would be meaningless for obscenity is nothing more than the feeling that sex is indecent, that sex is something of which to be ashamed. Only education can destroy that feeling, a product of misinformation.

Morris L. Ernst and William Seagle are authority for the statement that some years ago various clubs in Pennsylvania protested against certain statues which adorned the State Capitol at Harrisburg. The crusade finally crystallized into action—peculiar action. Stone masons were engaged publicly to castrate the heroic figures!

Thousands of school children attended and, by that grotesque performance, the adult instigators of the castration announced that sex is obscene and undermined all the good the statues might have done to educate the youth in matters not taught in their home or school teaching. After telling the story of the public castration of these statues, Ernst and Seagle say in their book, *To the Pure*:

By that one performance, attended by thousands of children, enough obscenity was embedded in the young of the Keystone State to keep parents and teachers of that State busy for a decade eradicating the effects. Such public demonstrations of so-called morality have an immoral effect on the young.

The authors go on to say that no one defends such influences. Almost every parent prefers to supply a child a life so true and rich that dishonest trash is disgusting and unexciting. I agree with Ernst and Seagle in their comment on the Harrisburg episode and certainly, whether all parents do or not, all parents ought to prefer to supply the child a life so true and rich that dishonest trash is disgusting and unexciting. The amazing thing is

that on the second page from the Harrisburg story appears the following:

Although most adults heard dirty words or saw sexual pictures or indecent poetry before or during adolescence, and although no individual ever admits any injury as a result of such contacts, nevertheless the first reaction of every adult is to condemn all such material for children. Almost the only data which can pretend to be scientific on the subject is that which we have analyzed and printed in a previous chapter. But let us assume that the pictures sold are of the worst conceivable sorts, portraying the sex act or perverted or abnormal variations thereof. What is the effect on the child? Obviously, if the pictures or words create intellectual or emotional disgust, if they act as repellents to anti-social practices, the effects are beneficial. The danger, however, lies deeper. Much of the pornography exhibited to children may create morbid emotional distortion. Possibly some of those neurotic adults who fear passion, who dread the sex aspects of life, trace the origin of such complexes to terrifying pictures of sex. Whether pictures and books are the remote or proximate cause is not known. In any case the family, the school, or the church must assume the responsibility of censor. The church for ages admitted its share in the problem of forbidding the reading of Ezekiel to children under thirteen years of age; the schools of late have revised their treatment of the sub-

ject of biology and the parents are gradually taking the place of the petty jurors.¹

Now if the Harrisburg episode did harm to those children for a decade, why were we not harmed by the dirty words, sexual pictures, indecent poetry before or during adolescence? Why is the statement made that no individual admits any injury as a result of such contacts? We were harmed. Many of us say so without any hesitation. Such words and pictures and jingles gave us the impression that all sex is indecent and obscene, that the human body is obscene. That superstition is damaging and it takes us years to recover from the damaging effects of those wrong impressions. That superstition has been the most damaging and destructive of all the superstitions that the world has ever known. That is the reason we are fighting it today. Ernst and Seagle say that it is obvious that if the pictures or words create intellectual or emotional disgust, if they act as repellents to anti-social practices, the efforts are beneficial. Probably there is some truth in this. The same might be said about the public castration of the stone heroes in Harrisburg. Many of us, during our childhood would have

been disgusted with such imbecile conduct from adults, unless the wrong teaching of the obscenity of the body blinded us to such a degree that the Harrisburg castration would have seemed like a moral crusade.

Heywood Broun says that nobody but fools and censors believe devoutly in the power of pornography. The writer is not and never has been a censor and protests at being classed as a fool. He thinks that the superstition of the obscenity of the human body has been extremely harmful for many hundreds of years. Pornography perpetuates that superstition. Lift the body taboo and pornography eventually will be wiped out but we cannot destroy in a day, a superstition which has cursed the world for untold centuries. Broun says that the moral devastation which is supposed to follow in the wake of printed impropriety is largely mythical and he insists that the censors have not proved their case. The writer cannot agree with Broun any more than he can agree with Comstock that anything on sex is obscene. He does agree with Broun that many of Comstock's cases concerned books and plays and pictures which were pornographic only by the

widest stretch of the imagination. He agrees with Broun that Comstock wanted judges and juries to make that stretch of imagination and that often they obeyed him. He agrees that Comstock was strong in getting courts to tackle the difficult and confusing task of defining obscenity. He agrees that Comstock had many confederates in his contention that the laws must be framed to protect the most vulnerable person in the community. Even if judge, jurors and all the witnesses read an exhibit and suffered no damage, they were expected to imagine, and often did imagine, some poor devil who would be corrupted by the same stuff. And no confederates of Comstock were more narrowminded or ignorant than judges in United States courts. Read a paragraph from Judge Phillips in the case of *United States vs. Harman* which was quoted in Chapter IV.

There is in the popular conception and heart such a thing as modesty. It was born in the Garden of Eden. After Adam and Eve ate of the fruit of the tree of knowledge, they passed from that condition of perfectability, which some people nowadays aspire to, and, their eyes being opened, they discerned that there was both good and evil; "and they knew that they were

naked; and they sewed figleaves together and made themselves aprons." From that day to this civilized man has carried with him a sense of shame, the feeling that there were some things on which the eye, the mind, should not look; and where men or women become so depraved by the use, or so insensate from perverted education that they will not veil their eyes, or hold their tongues, the Government should perform the office for them in protection of the social compact and the body politic.

In the light of information given in Chapters II, III and IV of this book, think of a judge of a United States court saying the things above and basing it all on the legend of Adam and Eve in the Garden of Eden!

Anthony Comstock was eighteen years of age when he raided a Connecticut saloon and spilled the liquor on the ground. He died at seventy-one after "overdoing in a purity convention." He had been appointed by President Wilson as a delegate to represent the United States at the International Purity Congress at the San Francisco Exposition. He had had a hard trip, made many speeches and contracted a cold which developed into pneumonia. For over half a century he had lived a long and busy life in a sewer, to use his own ex-

pression. He collected postage stamps and obscene pictures. I do not know how much of a stamp collection he had. He had the world's greatest collection of smutty post cards and pornography. He came up from the sewer frequently to associate with respectable people. The church received him as a devout Christian and uncontaminated. I did not know him personally but I have known several persons who were closely associated with him. He greatly enjoyed showing his pornographic collection to his friends. It was his great hobby. Psychologists tell us that Comstock found a sex thrill in the raids he made, in the shows he visited, in the pornographic material he confiscated and privately exhibited gratis. Reach your own conclusions. He was not helped by his half century in a "sewer." The argument that pornography had not a bad affect on Comstock and that, likewise, it had no harmful affect during our adolescent years or more mature years seems to be very weak, indeed. Anything which has helped to spread the unholy and damaging superstition of the obscenity of the human body has been detrimental to youth and adults alike.

There seems to be considerable justification

for the assertion in the only sane argument used for the enactment of the anti-obscenity laws and for their retention. This is the vivid description and actual exhibition of pornographic material which unscrupulous racketeers succeed in getting into the possession of young people whose immature minds need protection. The charge has been made that no other reasons were given in Congress for the passage of the so-called anti-obscenity laws. Comstock's own diary and letters are filled with such expressions. In January, 1873, Comstock succeeded in getting indictment against Frank Leslie for some illustrations and advertising, the latter being rich in notices of fancy books and pictures, of gambling materials, swindling schemes and contraceptive articles. He wrote in his diary, "At last, at last!! Thank God! At last action is commenced against this terrible curse. Now for a mighty blow for the young." When the petition for repeal of the Comstock law was before Congress in 1878, Comstock was hot and eloquent in refutation for he was fighting for the youth of the country. In his book, *Frauds Exposed*, he made this comment:

I then presented facts, why the laws should not be changed. I showed how catalogues of schools are collected for the sake of children's names and addresses; how different devices are resorted to, to collect the names of our youth in order to send secretly by mail to them, the most demoralizing articles, giving details and sad instances coming within my own knowledge, where many youth of both sexes have been ruined.

Many now demand that the sponsors for these Comstockian laws be held rigidly by their own argument and be given now the exact type of law which will meet what they themselves have advanced as the real evil, rather than the very vaguely and loosely worded statutes which have been used *ad nauseum* for over sixty years to suppress literature which *has not been pornographic at all*, much of it being serious educational literature on the subject of sex.

In their book, *To the Pure*, Morris L. Ernst and William Seagle, have framed a statute designed to protect the youth from pornography.

Sec. 1. Pornography is any manner of thing exhibiting or visually representing persons or animals performing the sexual act, whether normal or abnormal.

Sec. 2. It shall be criminal for anyone other than a teacher in the course of his employment, or a doctor in the regular practice of his profession, or a parent (of the child in question) to exhibit, sell, rent or offer for exhibition, sale or rent, any such pornographic material to any person under the age of eighteen.

Ernst and Seagle do not present the above as a legal instrument fully polished but merely as a basis for considering whether any legislation can provide a way out of our present difficulty. They recognize the impossibility of controlling all of life's obscenity, the difficulty of clearly defining pornography, the real difficulty of making any censorship effective, the certainty of counterbalancing evils. They admit frankly that they have criticized obscenity legislation because of its vagueness but feel that the proposed law at least has the asset of clarity. They feel that pictures, statues, and visual representations can be defined clearly and so limit the banned materials to these. They feel that such are more easily defined than subjective images derived from words in books, taking the position that if narrow definition cannot stand up under obvious tests, then a

broader more inclusive definition including books would be sure to break down.

Their proposal has some features to commend it. Its purpose to protect children is clear. It defines the material prohibited. It would prevent the continued violation of the present law under which courts have condemned all material which creates or might create in the mind of any, sexual thoughts or "libidinous thoughts." The statute would make the sale or other method of disposal of such material to a child a crime. The plan is not without difficulties and such are frankly recognized by Ernst and Seagle. The law might accentuate the search for the obscene. Should the age be twenty-one? Would young people reaching eighteen grasp eagerly for the material legal to those over the age? Would young people consider the possession of such material as a token of maturity as they now consider drinking and smoking and create a desire for securing it surreptitiously? Would they display it to associates a little younger? Instead of nude pictures would pornographic racketeers put out nude figures in the same positions? Would including figures

endanger statuary and paintings in art museums? Would not some get around the law by picturing partially clothed people in suggestive positions? Would such legislation not increase the price, increase the profit and actually thus promote the manufacture and sale of such pornographic material?

Any number of questions may be raised but some plan should be worked out to discriminate between what is clearly pornographic and what is aimed to educate and improve the race. One cannot enthuse much over the Ernst and Seagle proposal which does not touch in any way the pornographic material on our news-stands, the suggestive jokes and songs on the stage and in the films. Our problem is not to protect the young against pictures of people or animals performing the sexual act. Most of us have never seen such pictures. The suggestive material of pornographic publications and the songs and jokes of the stage and films are far more subtle. Our problem is that the genitals and sex are used as something about which to joke obscenely and such making of the body and all sex a subject of lewd levity is extremely harmful, for it gives our young people

the idea that the body, especially the genital organs and the breasts, is obscene and indecent. Intelligent people can distinguish between the product of the racketeer who is commercializing and exploiting sex curiosity and the product of honest people who are endeavoring to educate and uplift the race along sex lines.

No law has 100% enforcement. A law prohibiting pornographic propaganda would be no more difficult to enforce than the Comstock law of 1873 and it would permit what the Comstock law prohibits; i. e., birth control information and educational and sociological material on sex. It would be a vast improvement on the present intolerable situation. Meanwhile all who see the damaging result of the superstition of the obscenity of the human body are uniting in a campaign of education. Education is slow. Time will be required to destroy the superstition of the obscenity of the human body and create a right mental attitude on sex which will make pornographic material meaningless. The damage has been done for centuries and cannot be undone without difficulty. Adults close to the child can treat life honestly, lift the damaging body taboo, teach that love

and passion are clean and pure when properly enjoyed, and the cause of misery and degradation when abused. Legislation would help to protect the young while a nation-wide program is carried on to lift the body taboo, the result of the most damaging superstition the world has ever known, the obscenity of the human body.

While the three final chapters of this volume are not strictly on the subject of the body taboo, the subject discussed is so closely related that it was felt that it should be included. The superstition of the body taboo and the omnibus Comstock law are based on the same fundamental fallacies, i. e., that the human body is indecent and obscene and that all discussion of sex or anything connected with sex is obscene. Scientists deny these contentions and some judges still affirm them.

Educational publications which have for their object the destruction of the superstition of the obscenity of the human body still are denied the use of the mails and their sale on news-stands still is prohibited in some states. As this is written, last minute news comes from Albany, New York, that the New York Court of Appeals, by a four to

three vote, has handed down a decision that the *Nudist*, official organ of the International Nudist Conference, is "obscene literature." Such decisions are based on the Comstock law, so, from that standpoint, the movement to destroy the intersex taboo and the movement to make legal the circulation of literature designed to educate on the subject of sane sex life and rational living are one and the same problem. The sex side of life has been taboo just as the human body has been taboo. Not all who advocate repeal of the Comstock law and passage of a law which would prohibit only that which is pornographic and which commercializes and exploits sex curiosity for profit would advocate laws which would prohibit only exposure of the person in the presence of persons who would be offended or annoyed thereby. Education, however, will eventually result in the repeal of both groups of laws which are on the statute books and passage of laws which will distinguish between that which is actually lewd and lascivious conduct and that which is educational and uplifting, whether it be the practice of social nudism in camps and on bathing beaches or the sale of literature on news-stands

and the sending of it through the United States mails.

Release from the error of the body taboo and from the Comstock fallacy that anything on the subject of sex is indecent and obscene can be the greatest moral uplift, the greatest movement for social progress, the greatest forward step in hygienic, therapeutic, æsthetic, sociological, psychiatric development, the greatest step in practical psychology for the welfare of human kind. It offers to high-minded and open-minded people of today an opportunity to break the chains of blind superstition and rid the world of much suffering, misery and degradation.

We are at the dawn of a new day and blind prejudice and slavery to precedent must not stop the march of civilization to a higher, nobler life of happiness and joyful freedom. We must break the chains of superstition! We must open our minds to the light. A new and better way of life awaits us.

The story of the body taboo draws to a close. I have gone into the history and ramifications of the 19th century Federal Obscenity Law;—commonly called “Comstockery” because it is the

legitimate child of those witchcraft and heresy laws that today bring a blush of shame to the cheek of enlightened souls, like ourselves. Furthermore, we cannot afford to remain ignorant of and indifferent to this long line of prurient, diseased repression which weaves its soiled uneven strand through the tapestry of life. Somewhere, somehow this thread must be broken and discarded, never to sully and distort again the beauty of human life in all its highest and purest relations and aspirations. Art leads, religion deepens, science extends the search after truth, which is beauty. For those of us who dwell on the lesser heights or maybe down in the valley, education is at hand to help us. We can pursue knowledge; we can strive to know; we can seek confirmation; but what is it that our inmost ambition desires? If it is the more abundant life, then the evidence is on the side of those who would lift the body taboo and thereby release to the actinic rays of the physical sun the outer form but also the inner spirit of man to the sun of tolerance, experiment, experience, and knowledge of good which is without evil.

The human form is the most perfect of all liv-

ing things; it is the highest expression of creation. To release the human form from swaddling clothes when in the company of like-minded men and women tends to improve the race physically because no one wants to be defective and a great step has been taken in the path of truth, beauty and re-creation when a man will release his body from prison and, even though imperfect, go freely among his own for health's sake. The same applies to women and when we have strong, vigorous, healthy, beautiful fathers and mothers, then and then only can be ushered in "The Race That Is To Be."

Inestimable are the psychic values to be obtained by an expansion of bodily freedom and a sane, decent attitude of mind toward all normal functions of human life including sex relations and of the frank, unashamed family life that is coming when children will be born by choice and not by chance and they come "trailing clouds of glory" which shall *not* fade into commonness because there is nothing common under the sun.

To the pioneers—salutation and our thanks.

To the idealists—salutation and good speed.

To all—good will and the more abundant life.

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